S. HRG. 113–719

OVERSIGHT HEARING ON IMPLEMENTATION OF MAP–21'S TIFIA PROGRAM ENHANCEMENTS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JULY 24, 2013

Printed for the use of the Committee on Environment and Public Works

Available via the World Wide Web: http://www.gpo.gov/fdsys

U.S. GOVERNMENT PUBLISHING OFFICE

95–878 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED THIRTEENTH CONGRESS
FIRST SESSION

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OVERSIGHT HEARING ON IMPLEMENTATION OF MAP–21'S TIFIA PROGRAM ENHANCEMENTS

WEDNESDAY, JULY 24, 2013

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the Committee) presiding.

Present: Senators Boxer, Vitter, Carper, Cardin, Whitehouse, Gillibrand, Inhofe, and Boozman.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. Welcome everybody. Mr. Secretary, welcome. We are going to do opening statements and, as soon as the last Senator appears, people come in and out, we will then turn to you for your comments and then we will ask you some questions.

So, we are here today to conduct oversight of the TIFIA Program which we greatly expanded in MAP–21. TIFIA is supported by groups ranging from the U.S. Conference of Mayors that I think Secretary Foxx remembers well and with fondness, to the U.S. Chamber of Commerce to the AFL–CIO. And that is quite a coalition.

The TIFIA Program provides direct loans, loan guarantees and lines of credit to surface transportation projects at favorable terms. And the reason the terms can be favorable is there is a steady stream of funding behind those loans that we can count on. So, the cost here to us is very, very low and we can leverage these funds.

MAP–21 builds on the other already successful TIFIA Program by expanding it tenfold. And I want to thank my colleagues on both sides of the aisle who understood the potential of this program because we spent about $100 million a year in the old program, it is expanded this year to $750 million in 2013 and it goes up to $1 billion in fiscal year 2014.

So, according to the Federal Highway Administration, every dollar made available for TIFIA can mobilize up to $30 in transportation investments. The additional funding for TIFIA in MAP–21, including leveraging, will support 1 million jobs. So we are talking about something that is very important here.

Since its creation, the TIFIA Program has provided over $11 billion in credit assistance to 34 projects totaling over $43 billion.

However, in recent years the number of applications for TIFIA assistance has greatly exceeded available funding. For example, in fiscal year 2011, the Highway Administration received requests for $14 billion in credit assistance for projects totaling over $48 billion in infrastructure investment. Before passage of MAP–21, the TIFIA Program could support less than one-tenth of that demand.

The newly expanded TIFIA Program is experiencing incredible demand from cities and States. According to the FHWA, 31 projects totaling over $42 billion are seeking assistance under the TIFIA Program. So, colleagues, we did the right thing by expanding this program.

States and cities are stepping up to the plate to provide local transportation funding to accelerate projects through this program. The 30/10 Initiative in Los Angeles County is an example of how the program can successfully leverage local investments. It was called 30/10 originally. The intent was to build in 10 years, with TIFIA, what would otherwise take 30 years. And we were able to step up and meet that need in Los Angeles.

I have to thank former Mayor of Los Angeles Villaraigosa. He took 30/10 to the national level and explained that it could be replicated across the Country. We believe that here in this Committee and we started the expansion of TIFIA. In Los Angeles, they approved a half-cent sales tax dedicated to transportation and that is the stream of funding that is behind the TIFIA loans that they got from the Federal Government.

With the greatly increased resources that Congress provided in MAP–21, it is critical, Mr. Secretary, that TIFIA funds be used efficiently, effectively and responsibly. And I have total faith in your leadership to make sure that is done.

And we had a good meeting in which I said, you were in there for like 1 day, it was even before the vote on your nomination, and I said Mr. Secretary, please check on this because we have got to get those dollars out the door, make sure they are the right dollars, but get them out the door because we need the jobs.

So today, Secretary Foxx will testify about how DOT is implementing the changes to TIFIA that were included in MAP–21 and what steps the Department is taking to ensure the funding is being used in ways that stretch our resources effectively.

Then we have a second panel. Transportation experts and stakeholders will share their impressions of the improved and expanded TIFIA Program and discuss the opportunities that the program creates across the Country.

So, I am very excited about this. This is our first hearing after MAP–21 to take a look at the TIFIA Program. And now, of course, our next challenge in the next bill is to find a funding source to be able to continue not only this program, but our basic infrastructure programs. So, we are going to be working very hard on that.

And with that, I would turn to our Ranking Member, Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator VITTER. Thank you, Chairman Boxer and members of the Committee and Secretary. This is an important hearing that I have been looking forward to.

And I want to especially welcome to the Secretary and congratulate him on his nomination and confirmation. I am happy your first committee appearance as Secretary is here at EPW and I hope that this is the first of many appearances as we work together on important programs.

Certainly, ensuring that America has a healthy, comprehensive infrastructure network is a fundamental responsibility of Government. Our transportation infrastructure is a critical component of our economy, our way of life, and it is fundamental to connect people and communities and to promote and sustain economic growth.

Over the course of the next year, the Committee will need to not only ensure proper implementation and oversight of MAP–21's reform, but also work toward a new reauthorization. So, needless to say, we have a lot of work ahead of us. That is why it is really important that we begin that process today with an examination of MAP–21's reforms to TIFIA. While many pieces of MAP–21 are still being put into place, TIFIA got an early start and it is well into implementation. And so that gives us an opportunity to do oversight now.

Since TIFIA was first established in 1998, it has been an essential tool for many States and communities. With proper implementation of MAP–21 reforms, I think TIFIA can and should build on that past success. It is a powerful, flexible investment tool designed to leverage taxpayer dollars and encourage both private sector participation and efficiencies for critical projects.

MAP–21's reforms to TIFIA have increased transparency by broadening access and refocusing the program on project financial liability. Quality infrastructure means something different in every part of the Country. For years, understanding this concept and empowering it through our Federal policy is what has made transportation infrastructure such a bipartisan issue. That is why proper oversight of TIFIA is critical to making sure that the program not only follows the legislative intent but is equipped for tomorrow's challenges.

There are already areas of concern, including the management of TIFIA's rolling application process, the potential use of improper discretion in the project approval process, and the functionality and ramifications of TIFIA's definition of rural projects seeking the rural financing structure. So, I hope this hearing focuses on those areas of concern in particular as we do appropriate oversight.

As we have seen over the last several years, uncertainty causes real disruption for our States and communities in the planning, maintenance and delivery of transportation infrastructure. Making sure these uncertainties are addressed and that the program operates as promised will go a long way in settling that landscape.

As we move into more comprehensive discussions of our transportation infrastructure needs, it must be noted that while TIFIA is an essential tool to invest in our infrastructure, it certainly does

not replace a sound, sustainable Highway Trust Fund. I want to make that point as well.

Again, I thank the Chair and the witnesses for all the work brought into this hearing and I look forward to the testimony and discussion.

Senator BOXER. Senator Vitter, I agreed with every single thing you said.

Senator VITTER. Do we have that on the record?

[Laughter.]

Senator BOXER. Yes. I said it to put it in the record. I agreed with everything you said.

So, we are going to go by the early bird rule. So that is Gillibrand, Inhofe, Cardin and Boozman.

Senator Gillibrand.

OPENING STATEMENT OF HON. KIRSTEN GILLIBRAND, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator GILLIBRAND. Thank you, Madam Chairwoman. Thank you for holding such an important hearing.

Secretary Foxx, congratulations on becoming our Nation's 17th Secretary of Transportation. I look forward to working with you over the coming years and to address many of the transportation needs that New York has.

My State of New York faces a diversity of transportation challenges ranging from highly dense urban areas experiencing high level of traffic and congestion, major bridges over the Hudson River that handle high levels of commuter traffic, to rural highways that need to be safely maintained to ensure that commerce and agriculture are not disrupted.

As you know, much of the transportation infrastructure is rapidly aging and in need of repair and, in some instance, replacement. As others have pointed out, the American Society of Civil Engineers once again gave our infrastructure a dismal report card. Our Nation's bridges were rated C plus. The report found that 60 percent of New York's roads are in poor or mediocre condition.

That is why I believe a strong Federal investment is necessary. We cannot allow our Country to continue to fall behind and we need the long-term policies that ensure sustainable funding for our Nation's infrastructure.

As I travel across my State, I have seen firsthand the challenges that the municipalities and counties are facing to maintaining that aging transportation infrastructure. According to the New York State DOT, out of the 17,000 highway bridges in New York State, more than 2,000, representing 12 percent, are structurally deficient. That means that they will need significant repair.

More than 4,500, or 20 percent, are functionally obsolete, meaning that they were not designed to handle the levels of traffic they are currently experiencing on a regular basis. According to the American Society of Civil Engineers, the cost to repair or replace all of New York's deficient bridges is a staggering $9.37 billion. That is higher than any other State.

I am proud to work on this Committee and I am proud of the work they did coming together on our bipartisan bill, MAP–21, and particularly the provision that significantly expanded the TIFIA

Program. This will result in enhanced ability to leverage Federal dollars at the local level in order to spur capital investment in national and regionally significant transportation projects. With smart investments like this, we can harness the potential of the financial sector to spur economic development and create good paying jobs.

My colleagues may be aware of the project currently underway in New York to replace the Tappan Zee Bridge. The project was selected by the Obama administration as a project of national significance. Now, this bridge is an integral part of the Northeastern Interstate Highway System, a vital transportation artery critical to interstate commerce that carries about 133,000 vehicles daily. That is 40 percent more traffic than the bridge's original design.

A TIFIA loan has long been considered a key element of financing the Tappan Zee Bridge to reduce overall borrowing costs and the potential toll increases that may otherwise be used to finance such a large construction project. The full cost of this nationally significantly project should not be borne by the residents of New York State alone, or by dramatically increasing tolls on the bridge.

Mr. Secretary, thank you again for agreeing to come before this Committee for this oversight hearing today. Thank you for your willingness to serve our Nation at such a critical time.

Thank you, Madam Chairwoman.

Senator BOXER. Thank you, Senator Gillibrand.

Senator Inhofe.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. Thank you, Madam Chairman.

Let me start off by saying that I cannot think of anyone who could have been nominated anywhere in America who is better qualified, and is going to be easier to work with, than Secretary Foxx. I think a lot of that is that misery loves company.

[Laughter.]

Senator INHOFE. And you and I were both, we were both mayors of major cities. We know what a hard job is, don't we?

Mr. FOXX. We do.

Senator INHOFE. I would also mention that Gary Ridley is in the audience and I hope we get a change to say hello to him because he probably has testified at the table where you are right now before this Committee more than anybody else has and he is kind of Mr. Transportation out in the western part of the United States.

As I have said here before, I believe in Federal infrastructure spending and see it as one of the primary purposes of Government. Given our enormous infrastructure needs, it is difficult to imagine that the next highway bill could ever meet all of these needs. Not only do we need to get the most out of our Federal highway dollar, but we also need to incentivize the State and local government and the private sector to invest as much as possible in roads and bridges.

This hearing is an opportunity to examine the program of one of the most important financing tools in MAP–21, which is essential in leveraging the finite Federal funds. Now, I had three long paragraphs following this talking about the TIFIA Program which I will

not repeat because they are precisely what Chairman Boxer said in her opening statement. So, I will just agree with your statement in this rare case.

[Laughter.]

Senator INHOFE. Now, unfortunately since the passage of MAP–21 last August, there have been some tremendous criticisms of the inefficiency of the administration of the very loans we are trying to promote. There is no point in providing almost 15 times the funding provided in SAFETEA-LU for TIFIA if it prevents resources from being used for their intended purpose.

It is essential that we address institutional obstacles currently preventing optimal use of TIFIA and others and any ideas Secretary Foxx and our distinguished panel have regarding how do we overcome these challenges.

Finally, even with the fully funded and optimized TIFIA Program, we have got to inevitably turn our attention to the shortfall in the Highway Trust Fund. CBO has said, in April, that absent additional revenue in the Trust Fund, we will be faced with a 92 percent cut in any new highway funding, meaning most of all Trust Fund receipts will be used to reimburse States for projects that are already under construction.

Although I would prefer that we successfully identify a sustainable funding source, I have suggested in the past that it is reasonable to resort to General Fund, as we have, over five times in the past, when faced with no alternative other than a series of short-term extensions.

And I want to say this because we have a lot of my conservative friends. First of all, I know that you are aware of this, Mr. Secretary, I have probably been ranked the most conservative member as much or more than anybody else has. But I always say that we, I am a big spender in two areas, defense and infrastructure. If you read the Constitution, that is what we are supposed to be doing here.

And so, I was upset with some of my conservative friends who would make statements on the floor during, while were trying to get this bill passed just a little over a year ago, that were really not right. In fact, the conservative position was to do a reauthorization as opposed to doing extensions, extensions, you could argue, does that take 30 percent off the top or 28 percent or what? We know that it takes a lot of money out of the system. You cannot plan for it and it does not work. You cannot put the reforms, we had more reforms in our bill a year ago than all other bills, I think, combined than we have had in the past. You do not get that with extensions.

So, we are going to be faced with this thing and I would like to, the only conservative group is the American Conservative Union who correctly used statements that I used on the floor saying the conservative position is to come up with a good, healthy reauthorization bill and start doing what the Constitution says that we are supposed to be doing.

So, I just know that we are going to do the best we can and we are going to work as a team. And we are going to make this thing happen. And, of course, we rejoice in having your capabilities to work with us there and look forward to that process.

Thank you, Madam Chairman.

Senator BOXER. Senator Inhofe, I am breathless after that.

[Laughter.]

Senator BOXER. Senator Cardin.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator CARDIN. Madam Chair, it is always a pleasure to come after my big spending friend from Oklahoma.

[Laughter.]

Senator CARDIN. We are good friends. We came to Congress at the same time and Senator Inhofe has been a real champion on these issues as Senator Boxer has been a champion on this issue.

Secretary Foxx, welcome. It is a real pleasure to have you as Secretary of Transportation and we are honored that your first appearance is before this Committee which has a reputation of working across party lines to get things done. So, welcome. That is not always the case with secretaries appearing before Committees, so you think you are in a, I think, friendly Committee that has an objective of giving you the tools necessary to modernize our infrastructure.

And you are following on the footsteps of Secretary LaHood who did an incredible job in service for this Country and had a wonderful relationship with the Members of Congress and, as a result, I think we got some good things done for the Country.

So, we look forward to a similar working relationship between you and this Committee and the Congress. And welcome.

TIFIA was a pragmatic way to leverage more transportation funding. And it certainly is accomplishing those purposes. But as many of my colleagues have pointed out, it does not deal with the fundamental issue that we have and that is how do we finance long-term commitments to modernize our transportation in this Country? I could not agree with more with the previous speakers that we need a long-term, robust transportation program.

Senator Inhofe, it is difficult to look at how we can get that from General Funds when we do not have enough General Funds to balance the Federal budget. So, it is, I do not disagree with you philosophically, but I think it is a practical manner. We have to tackle the issue of where are we going to get the revenues necessary to fund the fundamental functions of Government. And yes, I agree that transportation is a fundamental responsibility and that we need to have funding for that.

Senator INHOFE. Since you mentioned my name, it is all right, but let me just respond. I do not disagree with that at all. I looked at things that are funded out of the General Fund and I think in terms of funding of our infrastructure is more important than a lot of those things. That is not my choice. I would rather have the long-term funding source that you mentioned. But we do not have that yet. I am saying that this has that kind of a critical effect on me and what I would be willing to do. So, I agree with you.

Senator CARDIN. I understand my colleague and my friend. I would just point out that some of us are prepared to make the tough decisions so that we have the revenues necessary to do what is right for this Country.

And there have been Members who have suggested a carbon tax, a pollution tax, as a way of not only dealing with energy policy and environmental policy, perhaps also having revenue to deal with a long-term transportation program. And I think we need to look at those types of proposals in a way to accomplish our mutual objective of being able to finance modern transportation in this Country.

Let me mention two other issues that I need to point out as we talk about TIFIA. One is that many of the States that are utilizing TIFIA to build new roads have a long backlog on repair and maintenance of their existing roads. Senator Gillibrand mentioned the problems in New York with bridges. If you take that nationwide, the backlog on repairs of our bridges and highways is close to $3 trillion.

So, as we are building new roads, which is important, we do not have the funding to maintain the existing roads. And I think we need to look at how we can put a priority on maintaining the safety of our existing transportation infrastructure.

The second point I want to raise in regards to TIFIA, because TIFIA is not helping us with repair and maintenance, the second is whether we have the right mix of transportation programs within TIFIA. It is my understanding that 84 percent of the TIFIA-funded programs go for new highways. I would suggest that if you represent a State like I do in Maryland and you look at our No. 1 transportation challenge, the Washington Metro Area has been rated as the worst traffic congested area in the Nation.

So, we need help on transit projects. And yet transit projects are having a difficult time getting TIFIA funding. We have a need in this region for the Purple Line expansion of the Washington Metro System, the Red Line expansion, the Baltimore Metro System, and yet when we take a look at the transportation bill that is on the floor today, the appropriations bill, it does not have the type of robust appropriations that give us great hope that these types of projects can move in a timely way.

So, Secretary Foxx, I just really wanted to make those comments as we talk about TIFIA to recognize that we have broader issues. This Committee and this Senator look forward to working with you so we can accomplish our mutual objective of modernizing our transportation system that will not only improve the quality of life of the people who live in this Country, provide a cleaner environment, but help our economy grow.

Senator BOXER. Thanks, Senator.

Senator Boozman.

OPENING STATEMENT OF HON. JOHN BOOZMAN, U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator BOOZMAN. Thank you, Madam Chair.

It is good to have you here, Secretary Foxx. I really enjoyed the visit in the office and getting to know you and I think you are going to do great things for transportation. And as you are feeling, the Committee is going to be very, very supportive.

In Arkansas, we have some concerns. We would like to, we have a couple of major interstates that we would like to work really hard to get completed, I–49 North-South corridor, we do not have very

many of those running through the Country, and then also the I–69 project. So, we look forward to working with you on that.

The other thing is that I hope the Committee, we are in the process of sequestration. And it is here now. It is here for the foreseeable future unless we figure out a way to undo that where it can make it so we do not have the across-the-board cuts. But again, I hope we can work together to manage sequestration as best we can for the Department and hopefully we can do that and provide you some help in that regard.

Also, working with the FAA to improve certification, to make our aircraft manufacturers internationally competitive, I think is very important.

In regard to TIFIA, just ensuring that the medium-sized, small communities, rural States have an equal opportunity to participate. And I think that is very, very important. And then two, promoting what we say cooperative federalism with the States, working together and, as we face the challenges we have talked a lot about today, we all agree that we just do not have the funding base that we need, trying to think outside the box, you know, that we can come up, working with the States, working with the private entities, to try and get some of these things done.

And then also something that is very, very important, and I think after visiting with you I know it is important to you, reducing the bureaucracy, reducing the roadblocks so that we can get these projects done in a timely fashion which would save a tremendous amount of money and be, you know, very helpful in a variety of different ways.

So, again, we welcome you on board. We look forward to working with you and appreciate your testimony today.

Thank you, Madam Chair.

Senator BOXER. Thank you, Senator Boozman.

Senator Whitehouse.

OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator WHITEHOUSE. Thank you, Chairman.

Welcome, Secretary Foxx. I am delighted that you are where you are and I look forward to working with you on Rhode Island issues.

We hear a lot of talk in Washington about our Nation's deficit. But we have a very, very serious infrastructure deficit as well as a fiscal deficit. It gets much less attention but is probably more immediately important to the American people when bridges are not safe, highways are not smooth, water is not cleaned properly and the services that they are accustomed to in those and other areas are not provided. So, I really think we need to work on this.

I am a big fan of the TIFIA Program but my Rhode Island Director of Transportation, Mike Lewis, tells me we have got nothing that qualifies for the TIFIA Program. We have got plenty of highways that need to be repaired, we have got plenty of bridges that need to be repaired, we have got an enormous amount of work to do.

We have got aging infrastructure on the water side, which is not your problem, it is equally serious. I think we are at, what, $600 billion a year in water infrastructure that we are behind on? And

our water resources bill is trapped here in the Senate because the House cannot legislate. And so, it is a frustrating circumstance to be in.

Just when we get to the Q and A, I want to ask your thoughts about what are the other creative ways in which we can go forward, particularly to help States like mine where TIFIA does not apply because we do not have the toll roads and the revenues to offset.

So, I welcome you. This is a big issue. Infrastructure should be something Republicans and Democrats can agree on. Every American is entitled to safe highways, safe bridges and safe water, both disposal and drinking water, and, at the moment, that deficit gets nowhere near the attention that it should.

So, thank you, Chairman, and thank the Ranking Member for focusing on this and I look forward to the hearing.

Senator BOXER. Thank you so much, Senator.

Well, Mr. Secretary, the floor is yours.

STATEMENT OF HON. ANTHONY FOXX, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Secretary FOXX. Thank you, Chairman Boxer, and Ranking Member Vitter and members of the Committee. It is a pleasure to join you today in my first hearing as the U.S. Secretary of Transportation. I am going to discuss the Transportation and Infrastructure and Innovation Act Program, more commonly known as TIFIA.

Mayors and Governors across this Country are looking for ways to get more out of taxpayer dollars while making critical investments for the future. And I know this from experience. TIFIA is a powerful tool that helps us do just that. And I do want to applaud the leadership of Chairman Boxer and so many others who have been instrumental in helping us get the reauthorization done and also the TIFIA Program's expansion.

As you know, TIFIA was created by Congress to help State and local governments finance large-scale transportation projects with innovative sources of revenue. TIFIA's flexible terms and low interest rates make it possible to obtain financing for critical projects that otherwise would have been delayed or deferred because of their size and complexity.

This includes projects like the recently closed SR–91 Corridor Improvement Project in Riverside, California. At the beginning of this month, we provided a $421 million loan to this $1.3 billion project which is expected to reduce traffic delays and create more than 16,000 jobs.

TIFIA is also a multi-modal program. Many large-scale surface transportation projects, including highways, transit, railroad, intermodal freight and port access projects are eligible for assistance. Increasingly, we are seeing a broad interest in TIFIA for innovative projects and projects with non-traditional sponsors. And we are seeing interest in States across the Country with more States taking advantage of the program each year.

TIFIA is fulfilling its fundamental goal which is to leverage Federal funds by attracting substantial private or non-Federal investments in critical infrastructure improvements projects to improve

the Nation's surface transportation system. In short, TIFIA is helping us stretch our dollars further.

This Committee recognizes the power of TIFIA as a tool that can leverage Federal resources and your comments reflect that. MAP–21, the transportation bill that you passed and the President signed last summer, included a significant expansion of the program, increasing TIFIA's funding more than eightfold from $122 million per year to $1 billion per year in fiscal year 2014.

We estimate that TIFIA's leverage ratio is more than 30 to 1, meaning that $1 of budget authority will result in over $30 of infrastructure investment. At the MAP–21 funding level, the TIFIA Program will stimulate as much as $30 billion or more in infrastructure investment in fiscal year 2014 alone.

The demand for TIFIA is high. In each of the last 3 years, we have received $12 billion to $15 billion in requests for TIFIA assistance. This year is no different. The Department of Transportation has received a record $15.8 billion in requests to finance 31 projects across the Country. Thanks to the strong bipartisan support and the leadership of Chairman Boxer and Ranking Member Vitter and the rest of this Committee, we now have the resources to meet the demand for TIFIA.

Since MAP–21 went into effect, we have been working hard to disperse this money quickly, committing more than $800 million of budget authority for 18 projects. In total, we have 25 projects progressing through the TIFIA pipeline right now. To put that into perspective, that is about two-thirds the total number of projects that TIFIA has financed since 1999.

We are also streamlining the way that we manage this program and we are continuing to spread the word, developing a series of webinars for local stakeholders who are interested in accessing TIFIA.

Transparency and accountability are also high priorities throughout the process. DOT is working to keep stakeholders informed throughout our creditworthiness evaluation process which is a rigorous but highly efficient effort to ensure that loans are likely to be repaid and that the taxpayers are protected.

We are also committed to oversight. Our DOT Credit Council is chaired by Deputy Secretary John Porcari and reviews all TIFIA requests. Under the Obama administration, the DOT Credit Council has strengthened its focus on creditworthiness requirements, incorporating lessons from the financial crisis and ensuring that projects are not over leveraged or financed based on overly optimistic assumptions about revenue.

And I think I am out of time, Madam Chairman.

Senator BOXER. That is all right. Please go ahead. We will give you another 2 minutes. Go ahead.

Secretary FOXX. Thank you.

Above all, TIFIA has been a highly successful way to leverage Federal dollars and it has helped communities across America invest in the large-scale infrastructure projects we need to be successful in the 21st century.

To date, the program has extended more than $11 billion in credit assistance to support almost $44 billion in highway, bridge, rail and bus projects. This year, we expect to obligate TIFIA funds for

seven or more projects, which is a record number, and 2014 promises to be even busier.

Again, it is a pleasure to be here and I look forward to working with all of you to address the Nation's important infrastructure needs. I am happy to answer any of your questions.

[The prepared statement of Secretary Foxx follows:]

STATEMENT OF
THE HONORABLE ANTHONY FOXX
SECRETARY OF TRANSPORTATION

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
U.S. SENATE

HEARING ON

Oversight Hearing on Implementation of Map-21's TIFIA Program Enhancements

July 24, 2013

Chairman Boxer, Ranking Member Vitter, Members of the Committee:

Thank you for the opportunity to be here today to talk about the Transportation Infrastructure Finance and Innovation Act (TIFIA) credit program.

The TIFIA program provides low-cost Federal credit assistance for surface transportation projects across the country. Created as part of the Transportation Equity Act for the 21st Century (TEA-21) in 1998, the TIFIA program was designed to help State and local governments that sought to finance large-scale transportation projects with new innovative sources of revenue. Prior to TIFIA, public sponsors often had difficulty obtaining loans at reasonable rates and attracting private financial investment due to the uncertainties associated with funding and financing these complex projects.

Today, the TIFIA program's flexible terms and low interest rates make it possible to obtain financing for critical projects that otherwise would have been delayed or deferred because of their size and complexity. This includes the loan for the SR-91 Corridor Improvement Project in Riverside, California. At the beginning of this month we provided a $421 million loan to this $1.3 billion project which is expected to reduce traffic delays and create more than 16,000 new jobs. Another example of a TIFIA project is the Washington Metropolitan Area Transit Authority (WMATA) Capital Improvement Program, which was the first agreement added to the TIFIA portfolio and is now successfully retired. TIFIA provided a $600 million loan guarantee in 1999 giving WMATA access to the capital markets at a low cost and allowing the agency to undertake a $2.3 billion program of projects to rehabilitate its bus and rail system. These projects are examples of the investment in critical transportation infrastructure that TIFIA credit assistance makes possible – projects that stimulate the economy and create thousands of U.S. jobs.

TIFIA is a truly multimodal program. Many large-scale, surface transportation projects, including highway, transit, railroad, intermodal freight, and port access projects, are eligible for assistance. Increasingly, we are seeing a broad interest in TIFIA from innovative and multimodal projects and projects with non-traditional sponsors. We are also pleased that projects in more and more states are interested in TIFIA assistance. This year alone we have closed TIFIA loans for projects in two new States – Washington and Illinois – and we have pending

projects from several other new states, including Delaware and Kentucky, that we expect to close in the upcoming fiscal year. And the TIFIA program continues to facilitate the introduction of private capital to infrastructure by providing subordinate debt and playing an important role in the financing plan for transportation projects advanced as public-private partnerships. In this way, the TIFIA program is fulfilling its fundamental goal: to leverage Federal funds by attracting substantial private and other non-Federal co-investment in critical improvements to the nation's surface transportation system.

Our ability to leverage Federal resources through TIFIA credit assistance is a powerful tool, and one that you recognized when authorizing a significant expansion of the program under Moving Ahead for Progress in the 21st Century Act (MAP-21), increasing TIFIA's funding level more than eightfold – from $122 million per year to $1 billion per year in fiscal year (FY) 2014. We estimate that TIFIA's leverage ratio is more than 30:1, meaning that one dollar of TIFIA budget authority supports over $30 of infrastructure investment. At the MAP-21 funding level, the TIFIA program could stimulate as much as $30 billion or more in infrastructure investment in FY 2014 alone.

Furthermore, the expanded TIFIA program will allow us to meet the overwhelming demand for TIFIA credit assistance. As you know, in each of the last three years, we have received $12 billion to $15 billion in requests for TIFIA assistance. So far this year, the Department of Transportation (DOT) has received a record $15.8 billion in requests to finance 31 projects around the country. Thanks to the strong, bipartisan support and leadership of Chairman Boxer, Ranking Member Vitter, and the rest of the Committee, we now have the resources to better meet the demand for TIFIA assistance.

And DOT has moved forward quickly to make sure the funding you have authorized is used to support projects. Since MAP-21 went into effect in October, we have committed more than $800 million of budget authority for 18 projects that submitted letters of interest. At the same time, DOT continues to advance projects that the Department has invited to apply under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) towards financial close. All told, there are 25 projects progressing in the TIFIA pipeline. To put that in perspective, that's about two-thirds the total number of projects that TIFIA has financed since 1999. And we continue to advance new projects as they achieve major milestones, such as securing all project funding, achieving necessary state or local legislation, fully developing plans of finance, confirming final decisions on procurement methods, or completing environmental clearances.

With the significant expansion of TIFIA funding and the unprecedented number of projects in the TIFIA pipeline, we have needed to increase TIFIA staff resources to meet the demand from project sponsors. I am pleased to report that we have made considerable progress on that front. As of today, we have hired 10 new TIFIA employees under MAP-21 and created four distinct teams in the TIFIA office to cover all aspects of loan review, monitoring and budgeting.

As you are probably aware, the TIFIA Joint Program Office has received extensive support from the Federal Highway Administration executing the program. In terms of leadership and oversight, DOT's Chief Financial Officer and Assistant Secretary for Budget and Programs has

provided guidance and overall policy direction for the program. The TIFIA program has operated successfully under this dual organizational structure, but we are making a change by repositioning the program within the Office of the Secretary. This will create a more streamlined management approach for effectively implementing a TIFIA program that is increasingly receiving large and complex loan requests from multi-modal sponsors of highway, transit, and rail projects.

My predecessor also recognized that TIFIA was a major component of MAP-21, and DOT made it a priority to roll out the newly expanded program. One of the first things DOT did was to embark on an outreach campaign to introduce TIFIA stakeholders to the program and its new features. DOT has developed and delivered a series of webinars about the TIFIA program over the last year. We believe much of the new interest in TIFIA—especially from states we have not worked with before—can be attributed to these and other outreach efforts.

DOT is also working to keep stakeholders informed throughout DOT's creditworthiness evaluation process, which is a rigorous, but highly efficient effort to ensure that project sponsors are likely to repay TIFIA loans and to protect taxpayers. We post information about the program on the TIFIA website on a regular basis, and we have added new material such as a chart that outlines the TIFIA review and approval process and tracks the status of each MAP-21 TIFIA letter of interest (LOI).

I would also like to highlight changes we have implemented in regard to the TIFIA review process. Less than a month after the enactment of MAP-21, DOT published a Notice of Funding Availability (NOFA) in the Federal Register that invited project sponsors to submit LOIs for TIFIA assistance on a rolling basis. The NOFA outlined how DOT redesigned the TIFIA review process to focus on MAP-21's emphasis on creditworthiness. The new, three-phase review process includes an initial screening of the LOI to ensure that the project has followed statutory and regulatory requirements and that it appears to be eligible. The first phase includes an initial screening to, as early in the process as possible, identify major hurdles that might preclude our providing credit assistance, or potentially delay a project. We work with project sponsors to resolve any such issues and then move eligible projects into the second phase, a comprehensive credit evaluation. Upon successful completion of the credit evaluation we will invite a formal application, negotiate terms, and, finally, execute the credit agreement.

The initiatives I have mentioned so far – expanding and reorganizing the TIFIA office, educating TIFIA stakeholders about the program, and revamping TIFIA's review process to focus on creditworthiness and eligibility – are things DOT has undertaken to ensure that we are able to commit the funds that Congress has authorized for the program. And while DOT is prepared to move expeditiously in advancing eligible projects, it is important to realize that the project sponsor determines the speed at which a project will move forward in the review process. Project sponsors coming to TIFIA for assistance usually bring large and complex projects. These undertakings require extensive coordination and integration of environmental review and procurement with DOT Modal Administrations, as well as financial and funding considerations. Sometimes, for very good reasons, a sponsor will find that it is in the best interest of the project to put the TIFIA process on hold while they work through other project-related issues. This is

indeed the case with some of the projects that have sought TIFIA assistance since the passage of MAP-21.

I would also like to mention that the TIFIA review process can move very quickly if standard TIFIA terms are adopted. However, in most cases, DOT has found that project sponsors want to pursue non-standard, more innovative terms for their loans. While these terms can take additional time to negotiate to ensure we are protecting the Federal government and sharing the risks with other investors and stakeholders, we are pleased to work with sponsors to best meet the needs of their projects.

We are committed to advancing critical projects and stimulating infrastructure investment, and equally committed to provide TIFIA funding in a responsible and prudent manner that protects the taxpayers' investment. To that end, DOT provides strong oversight of the program. One of the most important things we have in place at DOT is the Credit Council, chaired by Deputy Secretary Porcari and made up of the Modal Administrators and senior leadership throughout the Office of the Secretary. The Credit Council provides guidance on policy and lending standards and reviews all requests for TIFIA assistance before making a recommendation to me about approving a loan. Under the Obama Administration, the DOT Credit Council has strengthened its focus on creditworthiness requirements, incorporating lessons from the financial crisis and recent economic downturn and ensuring that projects are not overleveraged or financed based on overly optimistic assumptions about revenue performance.

The TIFIA program has been a highly successful way to leverage Federal resources to stimulate infrastructure investment throughout the U.S. To date, the program has extended more than $11 billion in credit assistance to support almost $44 billion in highway, bridge, rail, and bus projects. This year we expect to obligate TIFIA funds for seven or more projects – a record number – and FY 2014 promises to be even busier.

Overall, I believe that the changes made to TIFIA will cement the program's great track record and position TIFIA to provide an increased level of support to critical projects around the U.S., stimulating the economy and creating American jobs. I can assure you that effective oversight of the program is a top priority for me and I look forward to working with you to ensure the program's success for many years in the future.

Thank you again for this opportunity to meet with you. I will be happy to answer any questions.

Environment and Public Works
Committee Hearing
July 24, 2013
Follow-up Questions for the Record
Questions for Secretary Foxx

Senator Barbara Boxer

1. In addition to the large increase in funding, MAP-21 also included a number of policy enhancements that were broadly supported by outside organizations, including the ability to provide Master Credit Agreements for a "program of projects" and increasing the share of a project's cost that can be covered by TIFIA.

Can you explain the status of DOT implementing these changes and allowing applicants to take full advantage of MAP-21's provisions? Could you also describe the interaction and response of the TIFIA office to any applicants who have been interested in pursuing the TIFIA enhancements included in MAP-21, such as a Master Credit Agreement or an increase from 33 percent to 49 percent of the project's cost to be covered by TIFIA?

DOT has moved aggressively to implement Moving Ahead for Progress in the 21st Century Act (MAP-21) provisions including:

Master Credit Agreements:
The Master Credit Agreement is one of the significant new flexibilities provided under MAP-21. It gives DOT the authority to enter into contingent commitments for: (1) a single project when current-year funding is unavailable and (2) a program of projects secured by a common security pledge.

To date, Los Angeles Metropolitan Transportation Authority (LACMTA) has been the only sponsor to request the Master Credit Agreement. Last fall, LACMTA submitted a letter of interest requesting the Master Credit Agreement for the Westside Subway and Regional Connector Projects. After discussing the timeline for achieving major milestones and reaching financial close on the two projects, DOT and LACMTA mutually agreed that it would not be necessary to pursue the Master Credit Agreement option. Both projects were ready to move forward immediately and therefore did not need a contingent commitment.

LACMTA submitted formal applications for both projects on August 14, 2013 and received confirmation of the completeness of their applications on August 29, 2013. The applications were approved on October 28, 2013.

DOT will continue to work with project sponsors to ensure access to MAP-21 enhancements and other program benefits, including master credit agreements, to help meet the financing needs of transportation projects.

TIFIA Loan Sizing:
Under the previous surface transportation bill, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), TIFIA credit assistance was statutorily restricted to no more than 33 percent of federally eligible project costs. MAP-21 authorized DOT to extend TIFIA credit assistance for up to 49 percent of eligible project costs.

Thus far, the Department has not provided more than 33 percent of total project costs. This ensures that sufficient resources are available to meet the robust demand for TIFIA credit assistance. The Department has received credit requests for $18.1 billion from projects that have submitted letters of interest to date under MAP-21. Funding all of these projects at the level requested by their sponsors would require nearly the full amount of funding authorized for two years under MAP-21.

However, as described in the July 31, 2012 Notice of Funding Availability, a project sponsor has the opportunity to demonstrate that traditional sources of financing are not available at feasible rates and would constrain the sponsor's ability to deliver a project without TIFIA participation at the authorized maximum of 49 percent. To date, no projects have failed to proceed because of an insufficient TIFIA project share.

2. *Secretary Foxx, you mentioned in your testimony that you have received "a record $15.8 billion in requests to finance 31 projects around the country." This shows that there are extraordinary needs around the country for increased infrastructure investment and significant demand for the TIFIA program.*

   Can you expand on the things that the DOT is doing to expedite the review and project selection process in order to meet this increased demand for the program, while maintaining accountability and ensuring that taxpayer funds are utilized in a fiscally responsible manner?

DOT has taken significant steps to improve the transparency and pace of the project review and loan negotiation process.

Review Process Improvements:
A major benefit of the reforms in MAP-21 was to allow the TIFIA program to accept applications on a rolling basis. Project sponsors may submit Letters of Intent (LOIs) when they

are ready and no longer have to wait for an annual competition. Less than a month after the enactment of MAP-21, DOT published a Notice of Funding Availability (NOFA) in the Federal Register that outlined DOT's TIFIA review process, which focuses on creditworthiness and eligibility. The new, three-phase review process includes an initial screening of the LOI to ensure that the project has followed statutory and regulatory requirements and that it appears to be eligible. Our intent is to identify major hurdles that might delay a project early in the process. We work with project sponsors to resolve any such issues and, once resolved, move the projects into a comprehensive credit evaluation. Upon successful completion of the credit evaluation, we will invite the applicant to submit an application, negotiate terms, and, finally, execute the credit agreement.

In order to increase transparency to stakeholders throughout the project review stage, we have posted on our website a tracking chart for the projects that have submitted letters of interest under MAP-21 explaining each phase of the TIFIA review process and providing indicative timeframes for completing each step.
http://www.fhwa.dot.gov/ipd/tifia/letters_interest_applications/tifia_review_process_chart.htm

Another step we have taken to improve transparency is to make template documents available on the TIFIA website, including: (1) a newly revised program guide that provides information about eligibility, credit terms, the application and selection process, and typical monitoring and oversight requirements; and (2) a TIFIA Loan Agreement template that provides TIFIA's standard loan terms, gives project sponsors a clear idea of the Department's requirements, and provides an opportunity for sponsors who wish to move through the TIFIA process quickly the ability to streamline negotiations.

By providing this information in advance and better informing project sponsors about TIFIA's requirements, projects will be able to move more expeditiously through the review process.

Internal Staffing:
We have increased the TIFIA staff in accordance with the growing loan portfolio and expanded funding level provided under MAP-21. The Department has implemented a staffing plan for the TIFIA office to add 16 additional staff members and supporting attorneys for a total of 25. As of November 2013, TIFIA has implemented this plan by hiring 10 new employees and in-house counsel and has plans to hire the remaining six in the near future.

External Support:
As an integral part of the project review and selection process, the Department relies on external financial and legal professionals to help DOT evaluate the proposed credit assistance terms and creditworthiness of the borrower. The Department has recently expanded the available pool of

legal and financial advisors to ensure that we can expeditiously perform needed reviews in a timely and thorough manner.

3. *Secretary Foxx, in your testimony you mention how DOT is reorganizing internally and repositioning the TIFIA office inside the Office of the Secretary.*

   Can you explain why you think this will be beneficial and what the impact of this move will be? Are there any redundancies or steps in the review process that will be eliminated by repositioning the TIFIA office? Can you also describe what steps you are taking to make clear that, despite where in DOT the office might be located, the program remains under the jurisdiction of and is accountable to this Committee?

At its inception under the Transportation Infrastructure Finance and Innovation Act of 1998, TIFIA was created as an OST-level program, led by the Assistant Secretary for Budget and Programs and Chief Financial Officer. A January 12, 2001 Federal Register notice delegated the day-to-day administrative functions to FHWA while reserving the authority of the Secretary to provide overall policy guidance. Prior to MAP-21, this structure functioned adequately because there were predictable decision points in an annual competitive program structure. With the significant growth of TIFIA under MAP-21 and the implementation of a continuous, rolling application process, DOT believes that repositioning the program to one of prominence within the Office of the Secretary (OST) will provide a more efficient and streamlined management structure in which the office that sets policy guidelines is also responsible for day-to-day execution. In addition, this organizational change better reflects the increasingly intermodal nature of the program by building on the existing structure within the TIFIA Joint Program (JPO) and allowing it to continue to work closely with the Operating Administrations and the various policy and program offices within the Department.

Furthermore, this organizational change does not require a modification in the funding for the program. OST will manage the TIFIA JPO administrative costs, which will continue to be funded by the administrative set-aside from the TIFIA appropriation in the Highway Account of the Highway Trust Fund. As such, I do not believe the structural change will impact the committee jurisdiction or the program nor is it intended to.

4. *Secretary Foxx, in your testimony you mention that with the existing Letters of Interest you have already committed $800 million to 18 projects.*

   Can you elaborate on what those projects are, where they are in the review process, and when we may expect those projects to be invited to apply and then close on their TIFIA loan?

The TIFIA review process begins with the submission of a letter of interest (LOI), followed by a project creditworthiness review and then the issuance of an invitation to apply for credit assistance; a decision will be rendered by the Secretary of Transportation within 60 days after DOT notifies a project sponsor of application completeness.

The speed by which projects advance through each phase of the TIFIA credit assistance process is dependent, in part, by the ability of project sponsors to provide required financial information and utilize TIFIA's standard loan terms. The Department's TIFIA program guide, standard loan agreement template, and sample term sheet will assist project sponsors in moving through the process.

The Department works closely with project sponsors to ensure that requirements of each phase can be met in a timely and thorough manner while balancing the burden on project sponsors and the need to safeguard Federal resources.

Below is a table summarizing the status of all projects that have submitted LOIs since passage of MAP-21 as of November 15, 2013.

MAP-21 TIFIA Project Status Report as of November 15, 2013

Project Name	Type	Project Sponsor	Location	Requested[1] Assistance (in mm)	Receipt of LOI	Application Submission	Application Completeness	Application Approval
183 S	Highway	Central Texas Regional Mobility Authority (CTRMA)	Austin, TX	$363	8/1/2012			
Route 460	Highway	Virginia Department of Transportation (VDOT)	Southeast VA	$424	8/2/2012			
I-77	Highway	North Carolina Department of Transportation (NCDOT)	Charlotte, NC	$221	8/7/2012			
Knik Arm	Highway	Knik Arm Bridge and Toll Authority (KABATA)	Anchorage, AK	$500	8/14/2012			
SH 288	Highway	Texas Department of Transportation (TxDOT)	Houston, TX	$108	8/22/2012			
SH 183	Highway	TxDOT	Dallas County, TX	$350	8/22/2012			
Grand Parkway (SH 99)	Highway	TxDOT	Houston, TX	$1,064	8/22/2012	9/24/2013	10/16/2013	
IH 35 E	Highway	TxDOT	Dallas/Denton Counties, TX	$566	8/22/2012			
Mid-Currituck Bridge	Highway	NCDOT	Outer Banks, NC	$183	8/27/2012			
Tappan Zee Bridge	Highway	NY State Thruway Authority	Rockland/ Westchester County, NY	$2,891	9/5/2012	9/25/2013	10/16/2013	10/31/2013
CDA ConRAC ATS	Multi modal	Chicago Dept. of Aviation	Chicago, IL	$252	9/7/2012	6/14/2013	7/11/2013	8/21/2013
Northwest Corridor	Highway	Georgia Department of Transportation (GDOT)	Atlanta, GA	$375	9/17/2012	9/25/2013	10/16/2013	11/13/2013
Chicago Riverwalk/ Wacker Drive	Highway	Chicago Department of Transportation	Chicago, IL	$93	9/24/2012	4/16/2013	5/9/2013	6/11/2013
East End Crossing (Ohio River Bridges)	Highway	Indiana Finance Authority	Louisville, KY/IN	$617	9/25/2012			
Downtown Crossing (Ohio River	Highway	Kentucky Public Transportation Infrastructure	Louisville, KY/IN	$324	9/27/2012	9/9/2013	10/4/2013	11/13/2013

Bridges)		Authority						
Kansas City Streetcar	Transit	City of Kansas City	Kansas City, MO	$33	9/28/2012			
Iberville Project	Transit	City of New Orleans	New Orleans, LA	$61	9/28/2012			
I-49 North	Highway	Louisiana Department of Transportation & Development	Shreveport, LA	$85	10/2/2012			

[1] Requested TIFIA credit assistance amounts are derived from original LOI requests. Project sponsors retain the flexibility to modify the requested amount of assistance throughout the review process, and project costs are subject to eligibility review. As such, final loan amounts may vary from the amount of the original request.

Project Name	Type	Project Sponsor	Location	Requested[1] Assistance (in mm)	Receipt of LOI	Application Submission	Application Completeness	Application Approval
Dulles Metro	Transit	Metropolitan Washington Airports Authority	Northern VA	$2,940	10/5/2012			
LA 1 Toll Road	Highway	Louisiana Department of Transportation & Development	Lafourche Parish, LA	$175	10/12/2012	8/7/2013	8/29/2013	10/28/2013
Southeastern Tour Bus	Transit	Southeastern Tours Inc.	Wilson, NC	$1	10/24/2012			
Portsmouth Bypass	Highway	Ohio Department of Transportation	Portsmouth, OH	$345	11/2/2012			
South Padre Island	Highway	Cameron County Regional Mobility Authority	Cameron County, TX	$330	11/12/2012			
Westside Subway	Transit	Los Angeles County Metropolitan Transportation Authority	Los Angeles, CA	$856	11/21/2012	8/14/2013	8/29/2013	10/28/2013
Regional Connector	Transit	Los Angeles County Metropolitan Transportation Authority	Los Angeles, CA	$160	11/21/2012	8/14/2013	8/29/2013	10/28/2013
East Link	Transit	Sound Transit	Seattle, Washington	$1,045	12/5/2012			
Southern Beltway	Highway	Pennsylvania Turnpike Commission	Allegheny County, PA	$129	12/14/2012			
US 301	Highway	Delaware Department of Transportation	New Castle County, DE	$189	1/2/2013			
I-4 Ultimate Improvements	Highway	Florida Department of Transportation	Orlando, FL	$906	1/16/2013			
Thomas Roads Improvement Program	Highway	City of Bakersfield	Kern County, CA	$249	2/22/2013			
Advanced Driving Academic	Highway	Telurex	Chandler, AZ	$3	4/19/2013			
Purple Line	Transit	Maryland Department of Transportation	Montgomery County, MD	$732	8/9/2013			

[1] Requested TIFIA credit assistance amounts are derived from original LOI requests. Project sponsors retain the flexibility to modify the requested amount of assistance throughout the review process, and project costs are subject to eligibility review. As such, final loan amounts may vary from the amount of the original request.

CTA Railcars	Transit	Chicago Transit Authority	Montgomery County, MD	$250	8/17/2013			
Wekiva Parkway	Highway	Orlando-Orange County Expressway Authority	Orange County, FL	$354	8/13/2013			
Project NEON	Highway	Nevada Department of Transportation	Las Vegas, NV	$254	8/19/2013			
Illiana Corridor-IL	Highway	Illinois Department of Transportation	Wilmington, IL	$561	11/7/2013			
Illiana Corridor-IN	Highway	Indiana Finance Authority	Lowell, IN	$119	11/12/2013			

Senator David Vitter

1. *Can you discuss DOT's plan to get all the TIFIA funds out to state and local governments in a timely manner that in consistent with the law? Are you concerned with the possible long-term ramifications on the program if some TIFIA funding is apportioned because of the FY'14 deadline?*

MAP-21 authorized $1.75 billion over two years to cover the budgetary cost/subsidy cost of providing credit assistance. This increased funding has allowed the Department to better meet the overwhelming demand for TIFIA credit assistance and stimulate infrastructure investment that would be temporarily or permanently delayed without TIFIA financing.

The Department anticipates that the demand for TIFIA will continue to be robust through FY 2014 and beyond as new letters of interest are submitted and projects previously seeking TIFIA assistance have reached necessary milestones to qualify.

The Department has already received $18.1 billion in credit requests from projects that have submitted letters of interest under MAP-21. Funding all of these projects at the level requested by their sponsors would require approximately $1.9 billion in budget authority—more than the full amount of funding authorized for two years under MAP-21. As of November 15, 2013, TIFIA's projections include more than $900 million (in budget authority) to cover the estimated budgetary cost of extending credit assistance to 20 projects.

DOT's efforts to streamline the review process by making credit assistance requirements more transparent, increasing TIFIA staff capacity, and continuing to work with potential borrowers who are considering whether TIFIA credit assistance will help ensure MAP-21 monies are fully subscribed.

The Department expects to commit funds to projects over the coming months such that redistribution will not be necessary.

2. *Of the pending projects, can you give us a sense of how many are in rural communities? What percentage of the authorized funds do the pending rural projects represent? Does TIFIA need any changes to ensure that rural communities can compete? Do you have any concerns with what projects qualify for TIFIA's rural financing structure under current law?*

MAP-21 provides DOT with additional flexibility to address our nation's transportation needs in communities large and small. The minimum project cost for projects located outside of cities with more than 250,000 people has been reduced from $50 million to $25 million. Based on statutory language, 17 project sponsors have submitted qualifying LOIs requesting a total of $7.87 billion in credit assistance, or roughly 45 percent of total LOI requests.

Ten of the 17 projects eligible for the reduced interest rate have submitted LOIs requesting the reduced rate. The total requested credit assistance for these projects is $4.65 billion.

MAP-21 authorized the use of up to 10 percent of budgetary authority in FY 2013 and FY 2014 to provide credit assistance to qualifying rural projects at half of the Treasury interest rate. However, it is worth noting that while beneficial, the subsidy cost for loans at half the Treasury rate is very high relative to the subsidy cost for loans at the regular Treasury rate. Consequently, the Department has prioritized rural projects based on location outside an urban area as defined in 23 U.S.C. 101(a)(34), project cost, and readiness to proceed.

As of November 2013, one such project has been invited to apply for TIFIA credit assistance at the rural project rate. Louisiana Transportation Authority has requested to refinance its existing TIFIA loan for the LA-1 project, which provides enhanced connectivity to key coastal tourist and oil industry sites in Southern Louisiana. The refinancing solution will save the State of Louisiana from having to dramatically raise tolls, which would be harmful to the local economy. The refinancing will also create additional capacity that the state will use to fund additional transportation investments elsewhere in the state.

3. *Who sits on the TIFIA Credit Council? Are they all currently political appointees? You have the ability to appoint people who are considered non-political to the Council, is that something you think is appropriate?*

TIFIA credit assistance requests are reviewed by the DOT Credit Council, which oversees Department's credit policies and credit programs including the Railroad Rehabilitation and

Improvement Financing (RRIF) Program; the Maritime Guaranteed Loan (Title XI) Program, and the Minority Business Resource Center (MBRC) Short-Term Lending Program as well as the allocation of tax-exempt Private Activity Bonds (PABs).

The Credit Council reviews: (1) the financial analysis of proposed credit assistance and significant modifications to projects previously approved for credit assistance and PAB allocations and (2) the status of the outstanding loan portfolios of the Department's credit programs and PAB allocations. The Credit Council also recommends the approval or disapproval of proposed credit assistance and PAB allocations.
Membership to the DOT Credit Council includes:

- Deputy Secretary of Transportation, who serves as Chair
- Chief Financial Officer and Assistant Secretary for Budget and Programs, who serves as Vice Chair
- Under Secretary of Transportation for Policy
- General Counsel
- Assistant Secretary for Transportation Policy
- Federal Highway Administrator
- Federal Transit Administrator
- Federal Railroad Administrator
- Maritime Administrator
- Director of the Office of Small and Disadvantaged Business Utilization

In addition to these members, The Secretary of Transportation may designate three additional DOT employees as at-large members to the DOT Credit Council.

Members of the DOT Credit Council are supported in their roles on the Credit Council by extensive career staff assistance. These staff members participate in a working group that meets regularly to review and advise Credit Council members on all credit assistance proposals being presented to the Credit Council.

DOT believes that the current structure of the Credit Council provides a vigorous platform for review of TIFIA credit assistance applications that safeguards Federal dollars and helps to ensure creditworthy projects receive financial assistance.

4. *In several cases in the past DOT had the discretion to flex TIGER funds into the TIFIA financing structure. This would have given DOT the ability to leverage more money for projects. Despite high demand in TIFIA, DOT opted to hardly use that flexibility. Why was that the case?*

Transportation Investment Generating Economic Recovery (TIGER) funds have been used to provide \$1.046 billion in TIFIA credit assistance to four projects since 2010. The American Reinvestment and Recovery Act (ARRA) and the FY 2010 Appropriations Act allowed for an amount not to exceed \$150 million of the \$600 million TIGER program to be used to pay the subsidy and administrative costs of TIFIA credit assistance. These amounts increased to \$156.25 million in FY 2011 and \$175 million in FY2012.

Projects funded with TIGER TIFIA funds include the following:

- \$1.749 billion Crenshaw Light Rail expansion in Los Angeles, California
- \$923 million I-95 Express Toll Lanes project in northern Virginia
- \$397 million Dallas Area Rapid Transit Orange Line Extension
- \$242 million Chicago Transit Authority 95th Street Terminal

TIGER funds were extremely heavily subscribed, with requests totaling almost \$60 billion for roughly 1,500 projects. DOT developed a rigorous selection process including criteria such as state of good repair of critical infrastructure and improving the efficient movement of workers and goods. As a part of the prioritization of funding according to the published selection criteria, DOT selected the four projects mentioned above to receive TIGER TIFIA allocations for DOT to pay for the project subsidy and TIFIA credit assistance costs.

5. *In your testimony, you mentioned the potential to move the TIFIA program to the Office of the Secretary. Outside of moving people and money around, what are the concrete benefits of such a move? Does such a move streamline the TIFIA process? Does it remove any steps in the process? Will it reduce costs? What are the obstacles that the program faces in the current structure? How will a move alleviate the problems caused by each of those obstacles? MAP-21's reforms to the TIFIA program were to increase transparency in the project selection process, how does such a move align with that push towards transparency?*

At its inception under the Transportation Infrastructure Finance and Innovation Act of 1998, TIFIA was created as an OST level program, led by the Assistant Secretary for Budget and Programs and Chief Financial Officer. A January 12, 2001 Federal Register notice delegated the day-to-day administrative functions to FHWA while reserving the authority of the Secretary to provide overall policy guidance. Prior to MAP-21, this structure functioned adequately as there were predictable decision points in an annual competitive program structure. With the significant growth of TIFIA under MAP-21 and the implementation of a continuous, rolling application process, DOT believes that repositioning the program to one of prominence within the Office of the Secretary (OST) will provide a more efficient and streamlined management structure in which the office that sets policy guidelines also executes those guidelines. In addition, this organizational change better reflects the increasingly intermodal nature of the

program by building on the existing structure within the TIFIA JPO and will allow it to continue to work closely with the Operating Administrations and the various policy and program offices within the Department.

Furthermore, this organizational change does not require a modification in the funding for the program. OST will manage the TIFIA JPO administrative costs, which will continue to be funded by the administrative set-aside from the TIFIA appropriation in the Highway Account of the Highway Trust Fund.

6. *MAP-21 included a series of reforms that are intended to streamline the environmental review process. We have been told by the IG that many of the reforms included in the legislation are moving forward at a slow pace because there are not statutory deadlines included in the legislation for some of those provisions. Can you identify the Department's progress thus far on implementing Section 1306, which set up a process for accelerated decision-making?*

We began implementation of the project delivery reforms immediately after the enactment of MAP-21 and have worked aggressively to meet the many difficult deadlines that it established. Section 1306 is one of several provisions that require interagency coordination because of the financial implications for the operating budgets of our Federal partners. We drafted guidance on the accelerated decision-making process with informal input from the potentially affected agencies. This guidance is considered significant due to the budgetary implications, and this designation triggers formal review and clearance by other Federal agencies. We are confident that our preliminary coordination on this guidance will facilitate its formal review.

7. *Section 1306 of MAP-2 I included a provision to rescind a relatively small amount of money from an agency that "fails to render a decision under any Federal law relating to a project that requires preparation of an environmental impact statement or environmental assessment" in a certain timeframe. Are you aware of any rescissions from federal agencies that have taken place at this time?*

DOT is not aware of any rescissions that have occurred to date as a result of this provision.

Senator Jeff Sessions

1. *Secretary Foxx, congratulations on your confirmation to serve as the Secretary of Transportation. I was pleased to vote in support of your confirmation, and I wish you the very best as you take on this significant and challenging role. What primary goals do you hope to achieve in your tenure as Transportation Secretary?*

Safety will remain our top priority at DOT. At the same time, I will work to improve the efficiency and performance of our current transportation system while building the infrastructure we need for future generations. In doing so, I look forward to bringing my 'on the ground' experiences as a mayor, while embracing the tremendous knowledge, skill and ingenuity of the DOT workforce and our many stakeholders.

2. *Today's hearing focuses on the TIFIA program. Some states seem to be doing quite well under the TIFIA program: California, Texas, Florida, and Virginia, for example, have all received significant support through the TIFIA program. But most states are not benefitting much from TIFIA yet. 18 states haven't even filed a "letter of interest" for any TIFIA projects whatsoever. The State of Alabama has only expressed interest in using TIFIA for one project so far. What do you think is hindering more states from seeking to participate in the TIFIA program?*

Transportation infrastructure is funded in many diverse ways across the U.S. today. TIFIA credit assistance is flexible, but always requires a creditworthy stream of revenue for repayment. For project sponsors that have historically relied on grant funds to pay for projects, there is a learning curve to develop the expertise and institutional structures needed to access non-grant financing mechanisms such as TIFIA. Some states have also indicated that that they receive financing from other sources and/or they have state restrictions on borrowing funds for transportation projects.

To raise awareness of the potential use for TIFIA credit assistance among States and other potential project sponsors, DOT has developed and delivered a series of webinars about the TIFIA program, including MAP-21 requirements, over the last year. In addition, the TIFIA JPO has hosted a series of in-person meetings with State DOTs and FHWA Division Offices, among others, to explain the TIFIA credit assistance program. Finally, the TIFIA JPO works closely with OST, FHWA, FTA, and other relevant modal administrations to make sure potential borrowers have the technical and educational support needed to consider using TIFIA.

DOT expects that the diverse array of projects that will enter the TIFIA portfolio as a result of increased support from the MAP-21 legislation will act as a powerful tool to demonstrate to future borrowers the uses and flexibility of TIFIA credit assistance.

3. *When Congress expanded the TIFIA program in MAP-21, Congress included a provision to make the program more attractive to rural areas and states with lower population densities. Is the Department of Transportation receiving the significant increase in TIFIA applications for rural projects that we had sought to incentivize in MAP-21?*

MAP-21 provides DOT with additional flexibility to address our nation's transportation needs in communities large and small. The minimum project cost for projects located outside of cities with more than 250,000 people has been reduced from $50 million to $25 million. Based on statutory language, 17 project sponsors have submitted qualifying LOIs requesting a total of $7.87 billion in credit assistance, or roughly 45 percent of total LOI requests.

Ten of the 17 projects eligible for the reduced interest rate have submitted LOIs requesting the reduced rate. The total requested credit assistance for these projects is $4.65 billion.

MAP-21 authorized DOT to use up to 10 percent of budgetary authority in FY 2013 and FY 2014 to provide credit assistance to qualifying rural projects at half of the Treasury interest rate. However, it is worth noting that while beneficial, the subsidy cost for loans at half the Treasury rate is very high relative to the subsidy cost for loans at the regular Treasury rate. Consequently, the Department has prioritized rural projects based on location outside an urban area as defined in 23 U.S.C. 101(a)(34), project cost, and readiness to proceed.

As of November 2013, one such project has been invited to apply for TIFIA credit assistance at the rural project rate. Louisiana Transportation Authority has requested to refinance its existing TIFIA loan for the LA-1 project, which provides enhanced connectivity to key coastal tourist and oil industry sites in Southern Louisiana. The refinancing will save the State of Louisiana from having to dramatically raise tolls, which would be harmful to the local economy. The refinancing will also create additional capacity that the state will use to fund additional transportation investments elsewhere in the state.

4. *To fund MAP-21 to keep it deficit neutral, Congress had to transfer billions from the General Fund into the Highway Trust Fund. From a budgetary perspective, this was only possible because Congress found a matching amount in budgetary offsets in order to control deficit impacts. I am not opposed to finding smart ways to cut spending elsewhere to fully fund federal highway spending. What options does the Administration propose for addressing the shortfall in the highway trust fund?*

The Administration proposed in the FY 2014 Budget that the Overseas Contingency Operations (OCO) reductions provide savings and resources to support infrastructure spending. The Administration is not the only entity interested in addressing the adequacy of funding. Since States are experiencing similar shortfalls in their own funding, the Department is monitoring their innovations for optionsthat could work at the national level.

5. *Are you familiar with the XpressWest loan proposal and do you agree with Secretary LaHood's decision to indefinitely suspend the loan review for the XpressWest project?*

The XpressWest High-Speed Passenger Rail proposal is to construct a high-speed passenger rail system operating along an approximately 200-mile corridor linking Southern California and Southern Nevada. The Department of Transportation's review of the XpressWest RRIF loan application has been suspended. XpressWest may renew its application by revising its request to address the outstanding issues.

6. *Last week, an editorial by the Las Vegas Review-Journal had some advice for you in the wake of the XpressWest decision. The paper wrote: "Here's a better idea for new Transportation Secretary Anthony Foxx: Dump the idea of pouring huge sums of money into a utopian high-speed rail project that can't possibly cover debt payments. If the department is serious about 'investing' those billions, spend them on improvements to the nation's interstate system..." Do you agree with the newspaper-that, instead of spending billions on wasteful high-speed rail projects like XpressWest, the Transportation Department should focus on wise, prudent investments that do not expose taxpayers to unreasonable risks?*

All applicants for a DOT credit program, be it a bridge project seeking a TIFIA loan or a High Speed Rail line seeking a RRIF loan, must provide a financing plan that demonstrates an ability to repay the credit instrument.

With 100 million more Americans expected by 2050, the national transportation system must be prepared to handle substantial increases in the movement of people and goods. Each region must have the flexibility to determine what mix of modes will best serve their communities in a cost-effective manner and which individual projects will deliver the best return on investment.

7. *Do you believe that federal taxpayers should subsidize any high speed rail project that would involve gambling in its business model or economic justification?*

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Senator Roger Wicker

1. *Secretary Foxx, MAP-21 codified a number of changes to the TIFIA program. As this committee, and this Congress, moves to pass another highway bill, it is important for us to check on the progress and impact of those changes. Of those changes, the ones impacting projects in rural areas are of particular interest to me and my home state of Mississippi. In light of these changes, how many loans have been awarded to projects in rural areas?*

As of November 2013, one such project has been invited to apply for TIFIA credit assistance at the rural project rate. Louisiana Transportation Authority has requested to refinance its existing TIFIA loan for the LA-1 project, which provides enhanced connectivity to key coastal tourist and oil industry sites in Southern Louisiana. The refinancing will save the State of Louisiana from having to dramatically raise tolls, which would be harmful to the local economy. The refinancing will also create additional capacity that the state will use to fund additional transportation investments elsewhere in the state.

2. *Can you identify any specific obstacles that are preventing rural areas from taking full advantage of the TIFIA program? Is it a simple problem of education or are more substantive changes required? Would increasing the ability to bundle small projects together to meet loan requirements or requiring the Department of Transportation to adopt a more portfolio management approach to loan administration be helpful?*

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Senator BOXER. Well thank you so much, Mr. Secretary, for that. And it really is music to our ears because we stuck our necks out and decided together, all of us on this Committee, both sides, that this was a program worth expanding in a time when, as you know, we are not expanding many other things.

But I wanted to ask you, when you took over and I talked to you and others did about this, did you make any changes in how you deal with it? Did you put more people on this program? What changes are you making administratively handling this newly robustly funded program?

Secretary FOXX. Thank you for the question. First of all, I will say that we are focusing very much on helping these projects move through the pipeline. That was one of the first orders of business for me coming into the Department, having conversation with you and many others on the Committee.

And we are making progress on that. We had two projects that have moved recently, actually, in the Los Angeles area.

Senator BOXER. Have you had to make any changes in the way TIFIA is handled or do you think your predecessor, who was also pretty terrific, had he put it all in place or are you moving people around, more help, et cetera?

Secretary FOXX. Well, in terms of staffing, we are expanding our staffing and you can expect that we are going to add something on the order of 16 additional people to help us move projects through the pipeline.

Senator BOXER. Good. I think it is important because you point out at the same time you want to get the money out on the street you also want to make sure they are safe investments for us. And that is why TIFIA is so effective because there is very low risk to us.

Now, in addition to the large increase in funding, MAP–21 also included a number of policy enhancements that were broadly supported by outside organizations, many of whom are here today, including the ability to provide Master Credit Agreements for what we call "a program of projects" and increasing the share of projects' costs that could be covered by TIFIA.

Can you explain the status of DOT implementing these changes and allowing applicants to take full advantage of these new provisions?

Secretary FOXX. We have one request by a community sponsor to purse a Master Credit Agreement and actually even, in the course of pursing that opportunity, I believe that it was decided that it was not a good fit for that particular sponsor.

The flexibility is very important because what it allows us to do, potentially, is to pool projects by a project sponsor and to have an overreaching credit agreement that is available. I think that flexibility is still very important. But that is as far as it has gone, to my knowledge.

Senator BOXER. But you are prepared to deal with those as they come in?

Secretary FOXX. Absolutely.

Senator BOXER. MAP–21 also made improvements to make TIFIA assistance more practical and usable for all regions of the Country, particularly rural areas. What is DOT doing to educate

potential applicants to make them aware of the new provisions and how they can benefit particularly in the rural areas?

Senator FOXX. A very good question. One of the things that our staff is working on and had already started are a series of outreaches to local communities all across the Country. Some of them have been through webinars. There are other efforts to make this available to local communities.

I also want to point out that changes to the program that allow for a lower limit for assistance to rural communities has been very, very important and we are looking to make even greater use of that flexibility.

Senator BOXER. Thank you, Mr. Secretary.

Senator Vitter.

Senator VITTER. Again, thank you, Mr. Secretary, for being here.

As the Chairman noted, we dramatically expanded TIFIA. Part of that deal was to also streamline and simplify the criteria used and we tried to make it real simple, eligibility and creditworthiness. That is because we wanted to increase transparency and really get in the project selection process and really get the program back to its original intent.

Some of us are a little concerned that in the DOT application, however, there is a new term in there, public benefit, asking for a description of public benefit. Why is that inserted in there? Because it is not what we wanted to get back to, eligibility, either, you know, either you are in the box or not, either you are eligible or not, and creditworthiness.

Concern is that something like public benefit is obviously completely subjective and it would re-insert tremendous Administration discretion which, quite frankly, we did not want to do. We wanted this to be more of the rolling first come, first served, you know, let us have clear, objective criteria.

So, why is that term in your material and the application process?

Secretary FOXX. Well, thank you for the question, Senator, and let me say at the outset that may be a comment I will need to come back to following the hearing.

But on the face of it, what I can tell you is that I do not know of any request for a letter of interest that has come into us that has been excluded as a result of some concern about public benefit. In other words, every project that has come through our doors our staff is trying to work to get to yes on those projects. And I think that is consistent with the view that you had in crafting the legislation and the view that I have in terms of trying to get these projects done.

Senator VITTER. Right. Well, I would urge you to go look at that and maybe supplement your answer because if what you say is true, and I hope it is, then it is just sort of a useless time-consuming question and then why not take it out and not make people, you know, answer another question which really does not have to do with the two criteria we laid out.

Related to that, as I said, we dramatically expanded TIFIA. We wanted it to be more or less a first come, first served rolling process. So, with that in mind, have many projects have received assistance since the NOFA was issued in July of last year?

Secretary FOXX. Senator, I know of one project that has made it all the way through the process. There are several projects that are in the course of making it through. I think there are five or so that have gone through the creditworthiness process and have been invited to apply for the program.

You may recall that one of the things that has changed with the program is that we are being really, we are frontloading a lot of the effort on the creditworthiness so that when we get to the application phase, we can move much faster. And I think we are finding that that is actually the case.

So, as we say, I believe that by the end of this year you are going to see several projects that will get through and I think 2014 is going to be even more expansive.

Senator VITTER. OK. Well again, the concern is related to what I was talking about a minute ago, the concern is that there are dozens pending and so it is not sort of a stream moving through the pipeline. If there are dozens pending, the concern is that there is going to be picking and choosing rather than moving eligible projects the pipeline.

Secretary FOXX. If I might, sir?

Senator VITTER. Go ahead.

Secretary FOXX. My instruction to our staff is to try to get the yes on every application that we get in and it should be an outlier when we cannot get it done. There may be some situations as we go through creditworthiness that just do not work. And even then, we are going to try to figure out a way with the project sponsor to try to help make it work.

So, I want you to understand that is where I am coming from.

Senator VITTER. Right. And certainly, let me back up. I am not suggesting that we should bend much less break the rules about eligibility or creditworthiness, but simply that we should not be picking and choosing subjectively. No one should, including the Administration. And if you can get the pipeline moving to illustrate that you are not, I think that would build confidence. Because right now, there are a lot pending, and that is the concern.

As was mentioned, another issue that has come up, and I will end on this and you can address it, is the rural carve out and the threat that some mega-projects that technically meet that criteria could gobble up all of that money. Can you address that as move forward?

Secretary FOXX. Yes. Again, I think the flexibility that this Committee and the Congress provided us to be a little more tailored to rural communities has been extremely helpful. That is one of the reasons why we have also been pretty insistent on keeping the 33 percent amount that is contributed to projects pretty solid across the range of projects that have come through because it leaves us with the ability to use that capacity to do projects in rural American and other parts of the Country.

I come from a State that has urban parts to it and also rural parts to it and all of those parts are part of America and we are going to keep working to make sure we are building every part of this Country through this program.

Senator VITTER. Thank you.

Secretary FOXX. Thank you.

Senator BOXER. Thank you, Senator Vitter.

Senator Gillibrand.

Senator GILLIBRAND. Mr. Secretary, as I mentioned in my opening statement, New York State is in the process of seeking a TIFIA loan to finance a significant portion of the costs of construction for the replacement of the Tappan Zee Bridge. In March, Governor Cuomo announced that the process is moving forward and was in the credit review stage. Since them, we have not received an update on the current status. Could you provide me with an update on the status of New York's request?

Secretary FOXX. Thank you, Senator, and I appreciate the significance of this project. It is a project of national significance and a bridge that continues to be very highly trafficked, as you have pointed out.

This project has gone through several phases. It is still in creditworthiness. But, and by the way, it is the largest TIFIA request that we have ever tried to work through. So, I expect that this project will continue making its way through the creditworthiness review.

I will say that at a certain point there was some concern about what the appropriate percentage level would be for the TIFIA loan. I think there was an interest in having it be higher than 33 percent. It is now agreed by the parties to keep it at 33 percent and I think we are going to see that project moving its way through the system.

Senator GILLIBRAND. Are there other mechanisms or alternative funding besides TIFIA, including tax exempt or tax credit financing, and other public-private partnership programs that currently exist within DOT?

Secretary FOXX. There are. Private Activity Bonds, Buy America bonds, there are other tools that we have in the toolbox. And of course, the President has proposed an Infrastructure Bank as part of his fiscal year 2014 budget, all of which will be helpful, effective tools to build our system.

But I think, as has been pointed out across the Committee, there is also still a tremendous need for both repair and new across the Country.

Senator GILLIBRAND. How do you, if you could, give us some specifics, how do you plan to utilize the Federal Highway Administration's Office of Innovative Program Delivery as you seek to meet the Nation's infrastructure needs?

Secretary FOXX. Great question. We are seeing some examples of some pretty innovative project delivery today. The Highway Administration has started a program called Every Day Counts. And the whole goal of that program is to speed project delivery because when we shave time off of projects without compromising safety and environmental controls, we actually save money and help those dollars go further.

So, what they have done are things like, in some situations when you are building a bridge, for example, the components can be put together on the roadside and then wholly moved over into the bridge thoroughfare to make the bridge get built a little faster. And we are looking at ways to do that.

We are also looking at our NEPA processes and our other permitting requirements to see if we can find ways to streamline those to get projects done quicker.

Senator GILLIBRAND. Well, on that last point, is it helpful, do you think, to work with other agencies like the Department of Commerce, the Department of Energy, to help streamline implementation of additional public-private partnerships? Because as we look at the idea of Infrastructure Bank or an infrastructure authority which would not be providing financing but actually would be providing streamlining, are there ways the Department of Transportation can do that? What is your view of that approach?

Secretary FOXX. There are ways that we could do that. And I think the President, again, has put on the table some very good ideas about how to do that and I hope that we can see some activity around Congress in terms of responding to those ideas.

Again, though, even if you have a $10 billion Infrastructure Bank, you match that against the need for repair and maintenance and improvements across the Country. It is a huge step to get it there. It is a huge step to get more private money involved in building our infrastructure. But we still have a great need beyond that.

Senator GILLIBRAND. And in terms of streamlining, do you think working with other agencies is the right approach to do that?

Secretary FOXX. I do.

Senator GILLIBRAND. Or can you do that independently?

Secretary FOXX. Yes. It is essential and, you know, actually in some of our activity with EPA and HUD, we have been able to work together to make our projects more impactful at the local level. I can speak to that specifically as having been a mayor.

I think that as we start to think about our reauthorizations, for instance, one of the policies that we are working on right now is a national freight policy and the freight policy is designed to look at our economic data which will come a lot from Commerce and will help us begin with the end in mind as we build our Nation's freight infrastructure, whether it is rail, highway, or whatever.

So, we are actually collaborating a good deal and I will be looking for ways to help us collaborate across agencies to make our transportation system even more impactful.

Senator GILLIBRAND. Well, one example I just want to highlight. I have talked to many investors who would be delighted to invest in a high-speed rail line, particularly in highly frequented corridors, whether it is Washington to New York to Boston, New York up to Montreal, or New York from Albany all the way out to Niagara.

These are highly trafficked routes that could be very financially lucrative if the investment is done properly and many of those investors say we do not need financing, we do not need loan guarantees, we do not need any financing. What we need is the streamlining and the ability to do the project in a timely manner because if you cannot structure the build out in a way that is affordable for an investor, it cannot be done.

Is that something you have looked at? Is it something you have considered about how to be more creative?

Secretary FOXX. Yes, there is a lot of conversation about private building of infrastructure whether it is rail or something else. And I have yet to see a private sector player agree, out of benevolence, to build some infrastructure for someone. There has always got to be a revenue source that gives them a return on that investment.

Having said that, I think there is a lot we can do engaging with the private sector to figure out how to streamline the process for them. And we are seeing this in some parts of the Country. Chicago has an Infrastructure Bank that they have established. It is bringing private sector money to the table and it is helping to pick projects that will provide the best return but also the best public benefit.

So, I think that we should continue working toward that. But the point, I think the larger point that I am also trying to make here, is that while there are some projects that are great candidates for public-private partnerships, there are some projects that are simply part of the public good and will never qualify for a public-private partnership but are not unimportant because of that.

Senator BOXER. Thank you, Mr. Secretary. I think you can see how well-received you were here. We are very happy to see you.

Secretary FOXX. Thank you.

Senator BOXER. We are excited to work with you as we tackle our next problem. And we have a big problem. We have to figure out a way to move forward and we know you are going to be a very big help to us. And I am going to ask you this question. Will you stand ready to be a resource for us as we put together the next bipartisan highway bill?

Secretary FOXX. Senator, I will do everything I can to be helpful to you and to the Committee and I look forward to working with you.

Senator BOXER. Thank you so much.

Senator Inhofe, I am sorry, I forgot that you wanted to question. I am sorry. Stay here. Do not move.

[Laughter.]

Senator INHOFE. Do not leave. When I wind up, it will be time for the next panel.

But I just, real quickly, one thing I would request and that is, you probably, in my opening statement I talked about all of the reforms that were there, a lot of them having to do with NEPA, a lot of them having to do with other enhancements and other projects.

So what I would ask of you, and we probably had more, I believe, and I said this in my opening statement, that we had more reforms in this bill than in all of the rest of them. I have been around in these bills since I was in the House, back in the 1980s, and I think we have had more.

So, what I am going to ask you to do is look at all of these reports and be sure that they are carried out so that they are put into practical use, which would be very helpful and building a lot more miles of road. So, if you would do that, to become personally familiar with all of those reforms, I would appreciate that.

The question I would ask you is, I was serious when I said a lot of these people here in Washington and the U.S. Senate do not know what a hard job is. There is no harder job than being the

mayor of a major city and, you know, there is no hiding place. If they don't like the trash system, it ends up in your front yard. In fact it did, in my front yard.

Senator BOXER. Oh, no.

[Laughter.]

Senator INHOFE. So, we understand that and when I was first elected, they had neglected the infrastructure in my city of Tulsa. And I had to immediately jump in there. What kind of experience did you have as mayor of Charlotte, North Carolina, in terms of your infrastructure?

Secretary FOXX. Thank you for the question, Senator. It is hard to be a mayor right now and not have a lot of experience with infrastructure.

In Charlotte, we had gone through a period of about 30 years of dramatic, kind of sprawl expansion, as a result of our ability to annex. And shortly after taking office, it became very clear to me that we were not going to be able to annex anymore both because the laws had changed but also because we had run out of land.

Senator INHOFE. That is exactly what happened to us, the same situation.

Secretary FOXX. And yet, we were experiencing exponential population growth. In fact, it was the largest, the fastest growing metro region in the Country. So, our transportation systems have to do several things at once. It has to move things and people, it has to enhance the ability to make good land use choices, and it has to, hopefully, provide people with a reliable way to get someplace.

So, for us it was highways. It was transit. It was bike paths and sidewalks. It was bridges. And when those things all work together well, what happens is that people have choices. And when they have choices, they feel empowered and that is ultimately what transportation does for our Country. It empowers people to have a good quality of life and have good jobs.

Senator INHOFE. Well, that is why I said that there is no better training ground for your job than to have handled it at that level.

As you know, one of the agencies in your jurisdiction, the FAA, is currently involved in a lawsuit. That is why I wanted to visit with you a little bit here. This event, caused the Oshkosh Event, is the largest such event anywhere in the world. And the revenues that are generated for the FAA far exceed the amount that they would pay their air traffic controllers.

So, as soon as the Chairman dismisses you and asks for the next panel, maybe we could visit about that in the back room here?

Secretary FOXX. Yes, sir.

Senator INHOFE. Thank you very much.

Thank you, Madam Chairman.

Senator BOXER. Thank you so much, Senator Inhofe.

Thank you, Mr. Secretary. We look forward to working with you.

We will ask our second esteemed panel to come forward. Mr. James Bass, Chief Financial Officer, Texas Department of Transportation; Mr. Geoffrey Yarema, Partner, Nossaman, LLP; Mr. Art Leahy, my friend and Chief Executive Officer, Los Angeles Metropolitan Transportation Authority; Mr. James Roberts, President and Chief Executive Officer of Granite Construction Incorporated,

another one of my friends; and Mr. D.J. Gribbin, Managing Director, Macquarie Capital.

If you will all take your seats. We are going to get started because we have votes behind us coming soon. So, please be seated. We are going to start with Mr. James Bass and we are going to go all across the table.

We are very interested in getting your views today on TIFIA, what you feel about the program, any reports back from your perspectives since you are really on the ground.

We will start with Mr. James Bass, Chief Financial Officer, Texas Department of Transportation.

STATEMENT OF JAMES BASS, CHIEF FINANCIAL OFFICER, TEXAS DEPARTMENT OF TRANSPORTATION

Mr. BASS. Thank you and good morning.

I would like to thank you, Chairman Boxer, for holding this hearing to discuss the TIFIA Program. It is my privilege to provide a State's perspective on the program. And while I have the opportunity, I would like to thank the Committee for MAP–21 as we consider it to be the most significant surface transportation legislation passed over the last 20 years.

Since its passage, Texas has worked diligently to implement the new provisions and of note, the Texas legislature recently passed legislation permitting Texas to assume some environmental review for transportation projects. We have looked very carefully at the success that California has had with that program since 2007 and we are hopeful that we can replicate the same success in Texas.

We will continue to implement the new elements of MAP–21 in the second year of the bill and we look forward to updating the Committee on those efforts in the coming months.

Today, I am before you to discuss one MAP–21 provision, in particular, the TIFIA Program. MAP–21 solved several key challenges, at least on paper, that have held back the TIFIA Program. We were very encouraged by the substantial increase in funding for the program, the increased share of project costs that TIFIA could finance, provisions for rural projects, and the congressional desire to make the TIFIA Program more efficient. However, if MAP–21 funds are not deployed to projects that are ready, the program will lose momentum and Congress' objectives will have not been fully achieved.

Since TIFIA's inception back in 1998 as part of TEA–21, Texas has been an early and frequent user of the program. In fact, we view TIFIA as a critical component in the delivery of all of our larger-scale projects in the State. Within the last 10 years, our legislature in Texas has enacted several innovative financing initiatives that can be used in conjunction with TIFIA to deliver those projects sooner and more efficiently than traditional methods.

To date, projects in Texas have received $3.4 billion in TIFIA assistance which, when combined with State, local and private investment, have helped to deliver over $11 billion in transportation infrastructure. Because of the way the Office of Management and Budget scores TIFIA, the Federal budget impact for these projects is estimated at only $343 million. Compared to the traditional Federal funding, TIFIA helped save the Federal Government over $8.5

billion to deliver these same projects and TIFIA is a great example of States doing more with fewer Federal dollars available.

Under MAP–21, Texas has submitted six letters of interest and we continue to have open and forthright discussions with the USDOT about our projects. They have been good partners to work with and we certainly appreciate their willingness to meet with us and work through the new TIFIA process.

Prior to MAP–21, USDOT was allowed discretion to evaluate and choose eligible projects under specific criteria. USDOT also had the authority to weigh and compare the relative merits of eligible projects under the selection criteria and to choose those that scored highest under that weighted scoring system.

Over time, USDOT continued to add criteria such as livability to their list of selection criteria and too much discretion seemed to be permeating the process and made the program more about meeting subjective criteria as opposed to funding the best projects in order to meet the mobility demands of the citizens.

MAP–21 eliminated discretionary selection criteria as it established a limited set of objective eligibility criteria that required a yes or no determination of satisfaction. TxDOT and other States welcome this change in MAP–21 because we believe market forces should direct where projects are selected to receive TIFIA funding.

A year after passage, however, the majority of funds have not yet been put to use. A problematic effect of the new approach, whether intended or not, is that it does not meet Congress' intent that USDOT improve its timeliness in processing TIFIA credit assistance.

The new law requires USDOT to indicate whether an application is complete within 30 days of receipt and to approve or disapprove an application within 60 days after giving notice that it is complete. By adjusting the process prior to MAP–21 and by requiring that almost every project detail be disclosed prior to the application stage, USDOT has put an undue burden on the project sponsors and has dragged out what was intended to be a streamlined process.

In addition to the timing issues, USDOT has indicated that except under exceptional circumstances, they will not consider assistance for more than 33 percent of the total project costs. We would be thankful if they would consider that projects may benefit from more than that 33 percent.

I see, Madam Chair, that I just ran out of time.

Senator BOXER. Go ahead.

Mr. BASS. OK. So, we believe USDOT should adhere to Congress' intent and at least consider projects that would benefit from more than 33 percent to fund their projects, especially if it is important to put all of the dollars in the TIFIA Program to work.

Given that MAP–21 is only a 2-year bill, we have a compelling reason to get the TIFIA Program back on track. MAP–21 provides critical changes in increased funding. But change can be made to further correct the program.

Again, I would like to thank the Committee for the opportunity to be here today to share TxDOT's past and present interest in and experience with the TIFIA Program. And we also appreciate the professional and positive working relationship that we have en-

joyed with the USDOT staff and we are committed to working with all of our Federal partners to support the continued success of the very valuable TIFIA Program.

[The prepared statement of Mr. Bass follows:]

Texas Department of Transportation

Oversight Hearing on Implementation of MAP-21's TIFIA Program Enhancements

Testimony before the Senate Environment and Public Works Committee

July 24, 2013 10a.m.
406 Dirksen Senate Office Building

Summary

- MAP-21 is the most significant positive change in federal surface transportation policy in the last 20 years;
- TIFIA is a powerful financing device but it is not a substitute for long-term stable transportation funding;
- Texas has leveraged over $11 billion in infrastructure with the TIFIA program; and
- MAP-21 TIFIA assistance is taking longer to obtain than either Congress or project applicants anticipated. The current process can be improved.

I. Introduction

The Texas Department of Transportation (TxDOT) appreciates the opportunity to provide written testimony to the Senate Environment and Public Works Committee (EPW) outlining our experience with, and thoughts about, the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

While I have the opportunity, TxDOT would like to thank the Committee for the Moving Ahead for Progress in the 21st Century Act (MAP-21). We consider it to be the most significant surface transportation legislation passed over the last 20 years. Since its passage, Texas has worked diligently to implement all the positive changes the legislation provides to the states. Of note, the Texas Legislature recently passed legislation permitting Texas to participate in the Surface Transportation Project Delivery Program (Section 1313 of MAP-21) which would allow TxDOT to assume some environmental reviews for transportation projects. We looked closely at the success California has had with the program since 2007 and sought to replicate that same success in Texas.

We will continue to implement elements of MAP-21 in the second year of the bill and look forward to updating the Committee on those efforts. Texas intends to take full advantage of the new opportunities generated by the new law.

Today I am before you to discuss one MAP-21 provision in particular: the TIFIA program. A point that is generally missed in descriptions of MAP-21 is that the reinvigorated TIFIA program has the practical effect of adding at least an extra year of projects to the two year bill. According to the Federal Highway Administration (FHWA), each dollar of federal TIFIA funds can provide up to $10 in TIFIA credit assistance and leverage up to $30 in transportation infrastructure investment. If the entire $1.75 billion of TIFIA funds allocated in MAP-21 is leveraged at this 30x multiple, over $52 billion in much-needed infrastructure would be possible. Given this clear benefit, TIFIA is a valuable tool in the financing toolbox but it should continue to be a supplement, not a complete substitute for conventional federal-aid highway, highway safety and transit grant programs.

MAP-21 solved key challenges, at least on paper, that have held back the TIFIA program. We were very encouraged by the substantial increase in funding for the program, the increased share of project costs that TIFIA can finance, and the Congressional desire to make the TIFIA program more efficient. These changes to the program were not only welcomed by Texas, but by other states and national transportation stakeholder groups. The American Association of State Highway and Transportation Officials has praised the ability of states to leverage private sector resources through the expanded TIFIA program. While AASHTO believes it isn't the complete funding solution the nation requires, it is a significant financial tool nonetheless.

However, if MAP-21 TIFIA funds are not deployed to projects that are ready, the program will lose momentum and Congress' objectives will not have been achieved.

II. TIFIA in Texas

Since TIFIA's inception in 1998 as part of the Transportation Equity Act for the 21st Century (TEA-21), Texas has been an early user of the program. We view TIFIA as a critical component in the delivery of our larger scale projects. Within the last 10 years, the Texas Legislature has enacted several innovative financing initiatives that may be used in conjunction with TIFIA to deliver projects sooner and more efficiently. Some examples are:

- Long-term Debt: TxDOT was provided the authority to issue long-term bonds paid back by state motor fuels tax revenue, state general revenue and other dedicated revenue streams.
- Toll Revenue Bonds: TxDOT has the ability to issue bonds for specific tolled projects and use toll revenue to repay the bonds.
- Comprehensive Development Agreements: Texas' version of public-private partnerships allows the state to partner with the private sector to finance and develop new, state-owned mobility projects.
- Private Activity Bonds: The Legislature passed legislation in 2005 to allow the state to issue PABs in order to keep a private developer's borrowing costs as low as possible.

Multiple entities in Texas, including TxDOT, transit providers and regional mobility authorities have submitted 34 Letters of Interest (LOI) since the start of the program. To date seven of those applications have been approved and projects are moving ahead with TIFIA funds as part of their financing structure.

To date, Texas has received $3.4 billion in TIFIA assistance which, combined with state, local, and private investment, yielded over $11 billion in total project funding. Because TIFIA loans are scored at about 10 percent of the amount of the loan, the federal budget impact for these projects is estimated at only $343 million. Compared to the 80 percent that the

federal program contributes to projects under the traditional formula funding system, the TIFIA program saved the federal government $8.7 billion to deliver the same projects. TIFIA is a great example of states doing more with less federal dollars.

According to FHWA TIFIA data, Texas is home to the three largest TIFIA loans in the nation. These projects have been critical to relieving congestion and contributing to efficient movement of goods in heavily populated areas of the state. In addition, Texas has a significant TIFIA loan for a light rail project whose purpose is to move people into and out of a major international airport. These projects are detailed below:

Central Texas Turnpike System

TxDOT's Central Texas Turnpike was constructed with a $900 million TIFIA loan which was a key element in leveraging funds to cover the project's $3.4 billion price tag. The project consists of three contiguous toll highways serving the Austin metropolitan region and the Austin-San Antonio corridor. The largest part of the system, SH 130, was constructed to allow for an alternative route for IH-35 in one of the most congested parts of the state. The road allows for more efficient movement of people and goods through Central Texas.

- TIFIA loan - $900 million (used to retire Bond Anticipation Notes [BANs] in 2007 and 2008)
- First tier revenue bonds/notes - $1.4 billion
- State funding - $520.1 million
- Local contributions/TxDOT funds for ROW - $416 million
- Interest earnings/accrued interest - $185.2 million
- The project was delivered ahead of schedule and under budget.

I-635 Managed Lane Project

I-635 in Dallas, a TxDOT-sponsored project, provides managed lanes to relieve congestion in one of the worst bottlenecks in the state. An $850 million TIFIA loan was used to complete the $2.6 billion funding package. The project was designed and constructed as a Comprehensive Development Agreement (CDA), which is the Texas equivalent of a Public-Private Partnership.

- TIFIA loan - $850 million
- Private Activity Bonds (PABs) - $606 million
- Equity contribution - $664 million
- Toll Revenues - $17 million
- Public Funds - $490 million

North Tarrant Express – Phase One

The North Tarrant Express project in the Dallas-Fort Worth metro area is a significant project for mobility in the region. The project will add three general purpose lanes in each direction and two managed lanes in each direction for a total of 10 lanes with frontage roads for future traffic volumes. The $2 billion project is also a CDA between TxDOT and a private consortium of investors. The project was capitalized with a $650 million direct TIFIA loan.

- TIFIA Loan - $650 million
- Private Activity Bond Proceeds - $398 million
- Public Funds - $573 million
- Equity Contribution - $426 million

Dallas Area Rapid Transit Light Rail Orange Line

Dallas Area Rapid Transit received a $120 million TIFIA loan in 2012 to extend its Light Rail Transit Orange Line. The line connects downtown Dallas with the Dallas-Fort Worth International Airport. The TIFIA loan, as well as revenue bond proceeds and Section 5307 funds, make up the funding strategy for this project.

- TIFIA loan - $120 million
- Revenue bond proceeds and cash (backed by 1.0 percent sales tax and farebox revenue) - $276.4 million
- Other federal grant funds (Section 5307) - $600,000

Under MAP-21, Texas has submitted 6 LOIs (4 TxDOT projects, 2 local entity sponsored projects). We continue to have open and forthright discussions with the USDOT about our projects. They have been good partners to work with and we appreciate their willingness to meet with us as we all work through the TIFIA process.

While Texas has played a leadership role in the use of the TIFIA program, we see the rest of the country catching on and catching up. Project sponsors in Virginia, North Carolina, California, Florida, Alaska, New York, Illinois, Georgia, Indiana, Kentucky, Missouri, Louisiana, Ohio, Washington, Pennsylvania, Delaware and the District of Columbia have all looked to participate in the TIFIA program and have either previously obtained loans or have submitted LOIs for TIFIA credit assistance under MAP-21. As Texas and these states show how TIFIA can help advance the implementation of large-scale transportation infrastructure projects, we believe every state in the Union will come to use the TIFIA program.

III. TIFIA and MAP-21

MAP-21 embodies a fundamental shift in the administration of the TIFIA program. Prior to MAP-21, USDOT was allowed discretion to evaluate and choose eligible projects under specific criteria. USDOT also had authority to weigh and compare the relative merits of

eligible projects under these selection criteria, and to choose those that scored highest under a weighted scoring system. Over time, USDOT continued to add criteria, such as liveability, to its list of selection criteria. These criteria, while seen by some as beneficial to help narrow down projects for funding, went beyond what was laid out in law. Too much discretion seemed to be permeating the process and made the program more about meeting subjective criteria, as opposed to finding the best projects to meet mobility demands.

MAP-21 eliminates discretionary selection criteria. It establishes a limited set of objective eligibility criteria that require a "yes" or "no" determination of satisfaction. In the new language, it expressly states:

> "a project shall be eligible to receive credit assistance ... if the project meets the criteria described in this subsection." (§602(a)(1).)
>
> "... projects that are eligible to receive credit assistance ... *shall receive credit assistance* on terms acceptable to the Secretary, if adequate funds are available ..." (§602(b)(1)). (emphasis added)

TxDOT welcomed this change in MAP-21 because we believe market forces should direct which projects are selected to receive TIFIA funding. Congress can rightly point to this as a decision which created a level playing field designed to send funding exactly where there is demand. It is very close to succeeding.

When the final conference version of MAP-21 was released, we were pleasantly surprised by the 10 percent rural set-aside. We are not certain, however, if it will succeed within the two years as it took considerable time for potential sponsors to fully understand the original program. Although Congress built in an appropriate safeguard this time in the event funds are not utilized, you may want consider an extension beyond two years in order for the rural portion of MAP-21 to be effective.

The South Padre Island Causeway project in Texas, which falls outside the city limits of Brownsville, would appear to qualify for rural consideration. However when encompassing the entire metro area it does not qualify for the rural set-aside.

It might be useful, therefore, to have USDOT target state departments of transportation with an education campaign or workshops to explain in more detail this portion of the MAP-21 program. If no loans are made within the two years, Congress might want to consider a parallel program that's separate from the existing TIFIA program, but focused on regions

without major metro areas. Issues to consider include a less complex application process, the ability to refinance existing debt and possibly loans that can compete favorably with tax-exempt bonds.

IV. Funding Predictability and Delays

As the Committee is well aware, states are struggling with the lack of predictable funding for our transportation projects. The Surface Transportation Program, until very recently, was the most reliable of all federal undertakings. Now, it has joined the list of federal responsibilities that get fixed at the last minute. There are rescissions, earmark claw backs, short term extensions, and a trust fund that can no longer fully replenish itself. This is not the best way to deliver projects because it impacts the planning process for agencies, local communities and our private sector construction and engineering partners. We would, however, like to thank the Committee for its leadership in largely protecting state departments of transportation from sequestration for two years.

While TxDOT would have preferred that MAP-21 extend beyond two years, we felt encouraged by the robust TIFIA funding coupled with a streamlined decision process. The increased investment in the program, as I stated earlier, could be leveraged into a full third year of funding under MAP-21.

TxDOT also was encouraged by the speed at which USDOT issued its Notice of Funding Availability (NOFA). On July 31, 2012, three weeks after MAP-21 was signed into law, USDOT issued the NOFA. TxDOT viewed this as a positive step and immediately began preparing letters of interest. Other states are working to position themselves to use TIFIA funding on a variety of projects. Thirty LOI's have been submitted for the MAP-21 funds.

A year after passage, however, the bulk of the funds have not yet been put to use. Here is where we see the challenges.

A problematic effect of the NOFA approach, whether intended or not, is that it undermines Congress' intent that USDOT improve its timeliness in processing TIFIA credit assistance. The new law requires USDOT to indicate whether an application is complete within 30 days of receipt, and to approve or disapprove an application within 60 days after giving notice that it is complete. The NOFA process has effectively stretched the application process beyond the 30 and 60 day deadlines.

The new law requires USDOT to "implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance ..." (§605(e).). But by requiring much of the information to be submitted at the letter of interest stage that has been previously submitted at the application stage, USDOT has made the 30- and 60-day application deadlines less important and not made the process more streamlined. Indeed, NOFA sets no comparable deadlines for USDOT to act on letters of

interest. The USDOT is requiring that almost every project detail be disclosed at the LOI stage, which puts an undue burden on the project sponsors. A possible remedy would be to require the sponsors to include in their LOI representative financial terms, with some flexibility for future changes built in.

In addition to the timing issues, USDOT has indicated that, except under exceptional circumstances, it will not consider TIFIA credit assistance for more than 33 percent of the total project cost. That is the historical cap for assistance; however language in MAP-21 increased the cap to 49 percent. We understand that restricting funding to 33 percent would, in theory, allow more projects to be funded. To date, however, no project has been funded and therefore available funds remain unutilized. USDOT should adhere to Congress' intent and, at least, consider projects that need between 33 and 49 percent to fund their projects.

V. Ideas for Improving TIFIA

Given that MAP-21 is only a two year bill, we have a compelling reason to get the TIFIA program back on track. MAP-21 provides critical changes and increased funding, but changes can be made to further enhance the program:

- Reconsider the 33 percent ceiling on eligible project costs;
- Streamline the LOI phase and enforce strict deadlines for review of LOIs;
- Incorporate the TIFIA application process with project procurement schedules so as to maximize the competition sponsoring agencies can stimulate.

VI. Conclusion

TxDOT would like to conclude by thanking the Committee for the opportunity to submit written testimony regarding the department's past and present interest in, and experience with, the TIFIA program. TxDOT also appreciates the courteous and positive working relationship it enjoys with the USDOT and is committed to working with our federal partners to support the continued success of the TIFIA program. Looking beyond 2014, we look forward to working with the Committee to assist in the development of the successor to MAP-21.

Environment and Public Works Committee Hearing
July 24, 2013
Follow-Up Questions for Written Submission

Questions for Bass

Questions from: Senator Barbara Boxer

1. Mr. Bass, in your testimony you discuss how the Texas Department of Transportation has relied on the TIFIA program in the recent past, with 4 projects in the Dallas area and 3 in the Austin area receiving assistance under the TIFIA program.

   How important was TIFIA to these projects and would they have happened without TIFIA? Also, can you expand on how critical TIFIA funding will be for Texas DOT projects in the future?

   TIFIA has played a vital role in all seven of the projects referenced in your question. None of these were undertaken exclusively by TxDOT; they include projects delivered through contract with private equity, by local tolling agencies, as well as a transit provider. TIFIA was a critical component in each case because it provided a lower cost of financing that allowed projects to be accelerated and open to customers sooner. In addition, the lower cost of financing allowed other funds to be available over time allowing other projects across the state to be funded earlier than anticipated.

   Texas will continue to look to TIFIA for future projects. The demand for transportation infrastructure investment far exceeds the supply of traditional transportation funding. With very limited taxpayer dollars, the TIFIA program's leveraging effect expedites future projects that may have sat on the planning books for years. It is our hope that the TIFIA program will continue to grow in size, scope, and efficiency in the coming years.

2. Mr. Bass, your testimony mentions how it would be helpful for U.S. DOT to work with states on an education campaign to explain the MAP-21 changes and how they benefit rural areas.

Could you explain how such a program could work and if you think there are other things that could be done to help entities take advantage of MAP-21's improvements to the program?

As an opportunity to increase the awareness and applicability of TIFIA to states with significant rural composition, we recommend the following two-step approach for consideration by USDOT.

First, USDOT may wish to offer detailed guidance on the "rural infrastructure projects" provision for TIFIA in MAP-21. Currently, a rural infrastructure project is defined as "a surface transportation infrastructure project located in any area other than a city with a population of more than 250,000 inhabitants within the city limits." The law is unclear on how projects partially located in rural areas as defined will be treated.

In addition, USDOT could raise the visibility of the unique benefits under this provision that are not available for non-rural projects. Such benefits include:

- A 10-percent set-aside for rural infrastructure projects of the total amount of funds
  authorized by the bill for each fiscal year.
- While the TIFIA-wide eligible project cost floor remains at $50 million for most projects, rural infrastructure projects may have eligible project costs of only $25 million.
- The proceeds of secured loans may be used to refinance existing Federal credit instruments for rural infrastructure projects.
- The interest rate of a loan or line of credit offered to a rural infrastructure project is at one-half of the Treasury Rate.

Second, as the Committee considers policy enhancements for the next surface transportation legislation following MAP-21, it may wish to build on the aforementioned rural infrastructure projects provision by creating a separate program framework specifically targeted to projects in rural areas. Similar to the existing New Starts and Small Starts capital investment grant programs managed by the Federal Transit Administration, TIFIA could "spin off" a Small Starts-like program for federal credit assistance where smaller and lower-cost projects in rural areas can take advantage of a greatly simplified application process to encourage program accessibility. This proposed program could greatly reduce the amount of institutional resources needed to deploy credit assistance to rural projects commensurate with their less-complex nature

compared to urban megaprojects. Some specific features of this program could include:

- A streamlined application process based on a template that allows for quick turnaround on lower-cost loans for smaller projects.
- Encouragement of refinancing activities to take advantage of the lower borrowing cost of TIFIA compared to the capital markets, especially under the existing rural set-aside provision.
- Extension of rural infrastructure project eligibility to all projects in which any portion of their scope falls in a rural area.

3. Texas has clearly been a leader in taking advantage of the TIFIA program and successfully delivering large-scale projects.

   What would you say are the best lessons learned that other states should be aware of as they considering using the TIFIA program as a tool to advance large scale projects?

   TxDOT recommends other states note two key lessons:

   A. Bringing TIFIA to financial close adds high value in both cost savings and expediting delivery; and

   B. While the overall TIFIA effect is a great benefit, project sponsors need to be aware of (and plan for) the time that participation in the TIFIA program introduces to a project's financing and construction schedule.

4. Mr. Bass, in your testimony you mention a few ideas for improving TIFIA.

   Can you briefly expand on the suggestions you made in your testimony, and out of the three suggestions you made, which one do you think would have the most dramatic effect on improving the TIFIA program?

   A. Reconsider the 33 percent ceiling on eligible project costs.

As part of MAP-21 Congress allowed the USDOT to provide TIFIA funding for up to 49 percent of the total project cost. USDOT has indicated that, except under undefined exceptional circumstances, it will not consider TIFIA credit assistance for more than 33 percent of the total project cost. We would like the USDOT to follow Congress' mandate and allow TIFIA funding up to 49 percent, which would allow for increased project financial feasibility.

B. Streamline the Letter of Interest (LOI) phase and enforce strict review deadlines.

This is the most critical change that needs to be addressed. The USDOT now requires too much information at the LOI stage. While trying not to over-simplify the point, this could be reduced to a check-the-box procedure to determine if a project met the criteria set forth in the law to move forward to the application process.

A lower threshold for approval needs to be created in order to allow applicants more certainty when reaching out to financial partners for funding. In particular, the credit assessment phase now appears to occur during the LOI phase which requires near final versions of financial models and financing documentation. We believe this should occur in the application phase which has the benefit of the mandated time lines. Requiring the completion of the financial plan and documentation before the application significantly slows down the entire process, introducing uncertainty to private partners and/or investors and additional cost and risk to public sponsors.

The current process of conducting the credit assessment during the LOI stage delays the process so significantly that borrowers may be encouraged to pursue applications only for those projects which would be financially feasible without TIFIA.

> One recent example in Texas is the Grand Parkway Project in the Houston area. It has incurred some added costs because the TIFIA process cannot be matched with the project's procurement schedule. TxDOT began the TIFIA process in August of 2012 with its initial LOI. Based on credit and financing structure discussions with the TIFIA Joint Program Office, a revised LOI was submitted on January 4, 2013. Additionally, the required investment grade rating indication letters from two rating agencies were received and provided to TIFIA on May 3, 2013. To keep the

project on schedule, TxDOT issued debt to fully fund the project. These bonds were priced on July 16, 2013 and were successfully closed on August 1, 2013.

The estimated direct cost resulting from issuing additional debt in advance of a TIFIA loan is $2.3 million. However, there were other associated costs that are harder to quantify, but nonetheless had an impact on the project financing. Examples of these costs are:

- The cost to TxDOT resulting from the added liability on its finite financial resources which were utilized to provide credit support for the additional debt;
- Added additional investment risk to the investors of the non-TIFIA debt component of the financing. Increasing investment risk ultimately has the result of increasing the interest rate of the borrowing;
- Added financing complexity to a "green field" toll road financing that required additional investor education necessitating a greater level of marketing effort;

Due to not having a TIFIA commitment at the time of pricing, additional time and effort was required by TxDOT staff, Legal Counsel, Financial Advisors, Consulting Engineers, and other working group members, to facilitate a marketable and feasible financing plan that could fully fund the project and accommodate the possibility of receiving or not receiving a TIFIA loan in the future.

C. Incorporate the TIFIA application process with project procurement schedules to maximize the competition.

The USDOT's process can force a project sponsor to miss the cost and time savings opportunities associated with competitive procurements. States are trying to deliver projects on a timely basis but USDOT's TIFIA process can cause unnecessary procurement challenges.

Questions from: Senator David Vitter

1 TxDOT submitted comments to the Department's Notice of Funding Availability for TIFIA last summer. From your testimony, I assume that the concerns you laid out at the time still are of concern? Have you seen any evidence that your concerns have turned out to be true?

Yes, the concerns that we raised in response to the NOFA have indeed played out in the year since the NOFA was issued. For example, only one small Chicago-area project has received TIFIA funds as a result of the NOFA and very few others have even been invited to submit a formal application. The enhanced LOI that was part of the NOFA has created substantial delays that MAP-21 sought to avoid when it implemented time frames for the application process. In addition, the USDOT seems reluctant to consider anything more than 33 percent of total project cost for any applying entity, even though MAP-21 allows them to consider up to 49 percent.

2. Are the current administrative delays adding costs to the bottom-line of projects? If so, can you estimate that total cost on all your pending projects?

Yes, the administrative delays are adding costs to the bottom-line of projects seeking TIFIA assistance.

The financing for the $2.9 billion Grand Parkway Toll Road Project is an example of a project that incurred additional costs as a result of delays in accessing a MAP-21 TIFIA loan. As background, TxDOT began the process to obtain TIFIA funding in August of 2012 with our initial letter of interest (LOI). Based on discussions with TIFIA office staff in regard to credit and financing structure issues, a revised LOI was submitted on January 4, 2013. Additionally, the required investment grade rating indication letters from two rating agencies were received and provided to TIFIA on May 3, 2013. Further, to keep the project on schedule, TxDOT, through the Grand Parkway Transportation Corporation, issued debt to fully fund the project. These bonds were priced on July 16, 2013 and were successfully closed on August 1, 2013. To date, however, there has been no formal request from the TIFIA office inviting TxDOT to apply for a TIFIA loan. Consequently, the 90 day "clock" has yet to start.

TxDOT fully believes that the Grand Parkway Project exceeds the minimum credit criteria for the TIFIA loan program, and we expect to be formally invited to apply. Based upon the hope that a TIFIA commitment will be received and awarded sometime in the future, significant cost and effort was employed in the initial financing to accommodate a future TIFIA loan. The estimated direct cost resulting from issuing additional debt in advance of a TIFIA loan is $2.3 million. However, there were other associated costs that are harder to quantify, but nonetheless had an impact on the project financing. Examples of these costs are:

- The cost to TxDOT resulting from the added liability on its finite financial resources which were utilized to provide credit support for the additional debt;
- Added additional investment risk to the investors of the non-TIFIA debt component of the financing. Increasing investment risk ultimately has the result of increasing the interest rate of the borrowing;
- Added financing complexity to a "green field" toll road financing that required additional investor education necessitating a greater level of marketing effort;
- Due to not having a TIFIA commitment at the time of pricing, additional time and effort was required by TxDOT staff, Legal Counsel, Financial Advisors, Consulting Engineers, and other working group members, to facilitate a marketable and feasible financing plan that could fully fund the project and accommodate the possibility of receiving or not receiving a TIFIA loan in the future.

3. Your state has some of the most experience in working not only with TIFIA in general, but also with the program in more rural areas. What has been your experience in rural areas? What are the challenges? Do you anticipate MAP-21 reforms to the program to be helpful? Do you think the current statutory threshold for the rural set-aside is appropriate? Are there reforms to the program that you would suggest to improve access to the program for more rural areas?

   We believe the reforms in MAP-21 make it difficult to use the rural set-aside. TxDOT has not had any success with rural projects using TIFIA to date. A local entity in Texas, for example, submitted an LOI for a project that was not within a city limit and was in what we would have termed a rural area. However, when the nearest city was factored in, it was larger than 200,000 in population and therefore, the project was excluded from consideration. We believe the definition of rural needs to be amended to

allow for projects that fall outside city boundaries to stand on their own when requesting funding. If no loans are made within two years, Congress might want to consider a new parallel initiative that's separate from the existing TIFIA program, but focused on regions without major metro areas. Issues to consider include a less complex application process, the ability to refinance existing debt and possibly loans that can compete favorably with tax-exempt bonds.

4. Do the current delays discourage TxDOT from participating in TIFIA for a certain type of project? Would it if the delays continued?

   As a general rule, the delays have not deterred TxDOT from participating in the program and likely won't in the future, for the right types of projects. However, that does not imply that the current program is operating at the maximum efficiency taxpayers should expect. In the current fiscal environment, states are being called upon to do more with less, and the TIFIA program is a critical piece of the puzzle in funding large scale projects. However, the delays in the TIFIA program compound delays in other areas of project development such as the environmental review process. Every type of delay increases project costs and hinders a state's ability to deliver projects in an efficient manner. In MAP-21 Congress made its intentions clear about minimizing the delays caused by the TIFIA process. However, the USDOT has circumvented Congressional intent by drawing out the LOI process. Congress needs to continue to press USDOT to adhere to the timeframes laid out in MAP-21 in order to move the process along and avoid unnecessary delays.

5. In your testimony, you mentioned that the Texas Legislature recently passed legislation permitting the State of Texas to participate in the Surface Transportation Project Delivery Program – a program that was created in MAP-21. As you noted, this would allow TxDOT to move forward with portions of the environmental review process. Can you explain why the Texas State Legislature decided to participate in this program?

   In 2011 TxDOT undertook the retooling of the state environmental review process which sought to streamline the reviews on the state level. In order to sync the state program with the federal program, the members of the Texas Legislature recognized that Texas would significantly benefit from TxDOT's participation in the Surface Transportation Project Delivery Program (STPDP). The STPDP will

expedite the development and construction of highways and other transportation infrastructure projects by reducing the amount of time it currently takes to obtain approval of environmental documents required under the National Environmental Policy Act and other federal laws. Additionally, the Legislature trusted that TxDOT will carry out its responsibility under the program with the highest degree of technical competence.

While STPDP will not reduce the number and nature of federal environmental requirements, it will substantially improve the efficiency of the environmental review process for transportation projects in Texas by enabling TxDOT to complete environmental reviews in-house, rather than having to forward environmental documents to the Federal Highway Administration's Texas office, which has a small number of staff available to review and approve them.

6. Have you estimated the amount of time and money that will be saved on projects by allowing TxDOT to assume some of the environmental review process? If so, please share any estimates.

It is difficult to broadly measure savings of time and money because each project is different and the environmental process is not always on the critical path for getting a project shovel-ready. And even if there is a delay in the environmental approval, it may be due to some other agency permit or issue and not FHWA review and approval. That said, here are some estimates and examples of savings:

- There are 803 bridge repair/replacement projects on the current TxDOT four-year plan. Eliminating the FHWA environmental review step will take a minimum of one month off the environmental approval time of each. That amounts to 66 years of cumulative waiting time.

- TxDOT recently completed the environmental review and approval of an $800 million project in less than two years. The review was done under the state's equivalent of the FHWA review requirements. It's estimated that FHWA review and approval would have taken an additional two years or more based on typical timelines for Environmental Impact Statement approvals. Using a 4% construction inflation multiplier, it's estimated that having the project shovel-ready two years sooner resulted in a $65 million savings in construction costs alone. Similar time and cost saving would be expected under TxDOT's

assumption of FHWA's decision-making responsibilities under the MAP-21 program.

- TxDOT believes it can eliminate one to two years from the environmental review process for large projects by assuming FHWA's decision-making role in the environmental review process. The Texas Transportation Institute (TTI) conducted a study in 2011 (Assessing the Costs Attributed to Project Delays) which estimated that cost due to project delays for a typical large project was $447,000 per month ($5.36 million over one year, or $10.7 million over two years). TxDOT processes, and sends to FHWA for environmental approval, about 30 large projects a year. Extrapolating this savings, there could be an annual savings of $160 million to $321 million a year on large projects alone. TxDOT is working with TTI on an updated cost of delay study and would like to brief the Committee on what the research bares out when the study is complete.

7. Do you estimate any difference in the quality of the environmental review process that TxDOT will undertake versus the quality of the environmental review process that would take place at the Federal Level?

   TxDOT has about 80 environmental staff in its headquarters and another 80 in its 25 district offices that prepare and review environmental documents. The Texas Division of FHWA has about five environmental staff. The depth and expertise of TxDOT's environmental professionals will assure the continued quality of the environmental review process. Additionally, the measures required for TxDOT's participation in the Surface Transportation Project Delivery Program will increase the consistency and accountability of each step in TxDOT's review process. If any difference is recognized, TxDOT expects it will be positive.

8. As we begin consideration of a new surface transportation bill, what additional reforms to the environmental review process would you recommend we consider in attempts to improve the speed of project delivery?

   First, Congress should consider two points outside the FHWA's NEPA review role: 1) Short funding horizons make planning for larger projects difficult; 2) Permitting under other laws (Endangered Species Act, Clean Water Act and Clean Air Act)

are a common reason for delays. Specific to the NEPA environmental review process, TxDOT's experience is that much of the environmental review time is in spent in the numerous, individual judgmental decisions involved.

TxDOT has at least one specific recommendation for reform of the environmental review process. FHWA's NEPA regulations at 23 CFR 771.113(a) state that "...final design activities, property acquisition...or project construction shall not proceed until environmental approvals are final". Although TxDOT's experience is that this requirement has been infrequently enforced, a strict application could lead to delays because, for practical purposes, final design often overlaps with completion of environmental review. It is often a necessity that some limited final design activities are needed to complete the environmental studies. It is also a time savings for tight schedules if the environmental and final design activities are allowed to run parallel. MAP-21 appeared to address this issue, but FHWA rules are still restrictive on the subject.

One other recommendation would be to benchmark FHWA's environmental review process to that of other federal agencies. At least one study (DeWitt 2008) indicates FHWA's review time of Environmental Impact Statement's is substantially longer than that of the average of all federal agencies.

Senator BOXER. Thank you for that. I really appreciate your specific points there, thank you, because I can take them up with the Secretary.

And now we turn to Mr. Geoffrey Yarema, Partner, Nossaman LLP. Tell us what your company does.

Mr. YAREMA. Nossaman is a law firm. I am based in Los Angeles and proud to be a constituent.

Senator BOXER. Thanks.

STATEMENT OF GEOFFREY S. YAREMA, PARTNER, INFRASTRUCTURE PRACTICE GROUP, NOSSAMAN, LLP, MEMBER, NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION

Mr. YAREMA. Chairman Boxer, thank you for the invitation to participate in this important, timely hearing. I have submitted for the record a detailed statement and will cover only the highlights in my remarks today.

My views about TIFIA are shaped from two perspectives. First, as I mentioned, I am a partner in a law firm that represents States and regional transportation agencies around the Country. They are all struggling with the same basic problem, how to deliver their largest and most complicated projects while minimizing the use of Federal gas taxes. Many of our agency clients have successfully done exactly that thanks, in significant part, to the TIFIA Program.

Second, I was privileged to serve on the National Surface Transportation Financing Commission that Congress empowered under SAFETY-LU. Among the unanimous recommendations of our bipartisan report was strong support for a TIFIA Program sized to meet projected demand. In enacting MAP–21, Congress did just that.

And the States have responded. As you have mentioned, since MAP–21's passage, prospective applicants have submitted 31 LOIs for TIFIA loans to help finance over $42 billion of projects. This is clearly noteworthy. But what I consider equally noteworthy is that the number of States requesting assistance has now risen to 24. There are more projects in the pipeline that will push both of these numbers even higher.

With increased TIFIA demand comes increased USDOT responsibility to respond. The USDOT has made significant efforts since last year. What can be done to deliver on congressionally enacted enhancements and do better?

First, we can streamline the application process. Before an application can be formally submitted there are two steps, the letter of interest and the creditworthiness review. These serve valuable functions. But the enormous detail the USDOT is requiring of all LOIs is tantamount to a full-blown application process without having to worry about the statutory deadlines Congress improved on processing the applications themselves.

Second, we need help in using TIFIA to maximize competition for public works construction contracts. When States issue procurements that contemplate bidders using TIFIA, States can maximize competitive tension only if the USDOT can first make conditional commitments before bidders' prices are submitted, and second, they are able to close their TIFIA loans soon after those bids are re-

ceived. This can be done in a way that absolutely ensures careful creditworthiness analysis.

Third, the USDOT needs to consider making loans larger than 33 percent whenever they are creditworthy. I am sure you will recall that in adopting MAP–21, Congress permitted loan sizes to rise up from 33 percent to 49 percent of eligible costs. Nevertheless, to my knowledge the USDOT has yet to actively consider a loan greater than 33 percent despite numerous creditworthy requests.

The program office responds to such requests saying that public sponsors must meet some higher, undefined standard having nothing to do with creditworthiness, an obligation not derived from any MAP–21 statutory language.

Fourth, it is critical to preserve TIFIA's value proposition. TIFIA loans are intended to be subordinate to investment grade debt, not in most circumstances investment grade themselves. TIFIA loans are intended to allow sculpting of repayment toward the latter part of a loan's duration. These features have been hallmarks of the TIFIA Program since its inception in 1998 and need to be retained.

Fifth, the USDOT should strongly consider processing higher quality credits more efficiently. Consistent with congressional intent, TIFIA applicants dedicate a wide range of non-Federal revenue sources to repay TIFIA loans. Loans for projects backed by their own future user fees, like tolls, deserve revenue-specific analysis.

On the other hand, however, projects backed by a State's own highway fund or other investment grade rated revenue sources deserves streamlined due diligence and approval processes. The USDOT never need recreate the work rating agencies have already performed.

Finally, we can enhance transparency for better management. The USDOT has increased its communications with the public. Yet, it remains simply impossible for public agencies to obtain sufficient information to understand the extent to which the TIFIA Program capacity remains for a given fiscal year.

Will TIFIA be fully utilized? We do not know.

Senator BOXER. You need to conclude, please.

Mr. YAREMA. That is fine. That is fine.

[The prepared statement of Mr. Yarema follows:]

Testimony of Geoffrey S. Yarema

Partner, Infrastructure Practice Group, Nossaman LLP

Member, National Surface Transportation Infrastructure Financing Commission

Before the

United States Senate

Committee on Environment and Public Works

Oversight Hearing on Implementation of MAP-21's TIFIA Program Enhancements

July 24, 2013

A. Introduction

Chairman Boxer, Ranking Member Vitter and members of the Committee, thank you for inviting me to testify today. My name is Geoff Yarema. I am a partner in the Infrastructure Practice Group at the law firm, Nossaman LLP, in Los Angeles. While the views I express here today are my own and not necessarily those of any of my partners or any clients of the firm, my testimony reflects a long career in transportation development and financing. My views on the Transportation Infrastructure Finance and Innovation Act, or TIFIA, are shaped by three different perspectives.

First, I have been involved in the development and implementation of TIFIA from its earliest days. Even before TIFIA's inception in 1998 as part of the Transportation Equity Act for the 21st Century (TEA-21), I worked on its predecessor projects – the Orange County Toll Roads and the Alameda Corridor – which Congress facilitated with line item loans and lines of credit. These projects paved the way for a formal national program.

Second, as a practitioner in the field, I have advised public agencies across the country in the innovative procurement, contracting and financing of large transportation projects in ways that minimize the use of federal gas tax revenues. As a result, my colleagues and I have been fortunate over the years to be involved in over $26 billion worth of projects using nearly $7 billion in total TIFIA assistance, and are currently advising clients that have submitted Letters of Interest (LOI) totaling over $23 billion in project value.

Third, my testimony reflects my years of work on the National Surface Transportation Infrastructure Financing Commission (Commission), a bipartisan commission mandated by Congress under The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The Commission's final report unanimously endorsed a strong TIFIA program and offered recommendations to improve it, many of which Congress incorporated into the reauthorization of the TIFIA program embodied in the Moving Ahead for Progress in the 21st Century Act, or MAP-21.

Based on my experience with TIFIA, I believe it is a critically-important program for the development of transportation infrastructure in this country. The overall effectiveness of the program to date is truly a testament to Congress, to state, regional and private applicants and to the TIFIA Program Office housed in the USDOT – each of which has worked very hard to make the TIFIA program a success. From where I sit, despite declining federal gas tax revenues, I am seeing more mega-projects in the pipeline than I have in many years. This trend speaks to this Committee's leadership, including, especially, Chairman Boxer and then-Ranking Member Inhofe, in creating this enhanced TIFIA program, but it also presents challenges to the TIFIA Program Office to get the loans approved and closed in a timely way.

B. <u>Federal Role in Surface Transportation Continues to Evolve</u>

As the Commission detailed in its final report to Congress entitled "Paying Our Way: A New Framework for Transportation Finance," the role of the federal government in funding and financing our national surface transportation infrastructure is fundamentally changing. Historically, the federal role was to provide significant financial resources to states and transit agencies out of the Highway Trust Fund (HTF) and to restrict the way those monies were spent. In recent years, however, the stability and adequacy of the HTF has diminished. While federal gas tax revenues are falling, investment needs are on the rise.

The TIFIA program responds directly to the need to stretch limited federal resources to fund critical improvements to the nation's aging surface transportation system. While not a substitute for direct apportionments of federal dollars from the HTF, the TIFIA program allows applicants to leverage fewer federal dollars to maximize local, state and private funds through a variety of credit instruments, including direct loans, loan guarantees and lines of credit. The TIFIA value proposition as enhanced by MAP-21 is enormous. A single dollar of TIFIA money can be leveraged into between 10-20 times that amount in direct loans, which can produce projects 2-3 times the size of the loans. Applied to a project of the scale eligible for TIFIA assistance, that means that $33 million in federal credit subsidy can result in a $330 million TIFIA loan to support a $1 billion project.

C. <u>Congressional Signals to Project Sponsors</u>

In MAP-21, Congress recognized that state and regional public agencies were struggling to fund and finance large transportation projects. With HTF resources likely

to remain insufficient to fund mega-projects, Congress greatly expanded the TIFIA credit assistance program, sending clear signals to state and regional public agencies.

- By expanding the amount of TIFIA budget authority from approximately $122 million a year to $750 million in FY 2013 and $1 billion in FY 2014, Congress made it clear that project sponsors should take advantage of a larger, more robust TIFIA program for its projects of regional and national significance, rather than expecting new federal grant money for large projects.

- By sizing and streamlining the TIFIA program with the intent to meet then-projected demand, Congress signaled to project sponsors that they should focus less on competing against each other for this previously-limited federal credit resource and instead should devote their energy to optimizing their own project's financial feasibility.

- By imposing a "ripeness" requirement, Congress signaled that project sponsors should be discouraged from filing applications early in order to make it difficult for other sponsors to discern the extent to which prior filings were using up available capacity during the fiscal year a sponsor was targeting.

- By enhancing the predictability and efficiency of the TIFIA review and approval process, Congress sought to make the program more applicant-friendly and to encourage program participation.

D. Congressional Signals to TIFIA Program Administrators

With the passage of MAP-21, Congress also sent clear signals to the USDOT administrators of the TIFIA program.

- By sizing the program to meet then-projected demand and removing statutory discretion to select among eligible projects, Congress signaled that program administrators were to treat all eligible and creditworthy projects equally—in effect, first come, first served.

- By increasing lending capacity by a factor of seven in FY 2013 and by a factor of eight in FY 2014, Congress signaled that the program need not restrict loan applications to a once a year application window, permitting a rolling application process – in effect, making loans available on a project's schedule, not on the USDOT's schedule.

- By increasing permitted loan size from 33% to 49% of eligible costs without changing the creditworthiness requirements, Congress signaled approval of the way USDOT had previously been structuring loans and encouraged USDOT to expand the size of creditworthy loans.

- By imposing statutory deadlines on processing applications, Congress signaled the importance of speeding up the delivery of federal creditworthy projects of regional and national significance.

- By imposing the "ripeness" requirement referenced above, Congress signaled that USDOT should focus on those projects that are ready for a TIFIA commitment.

- By providing funding for enhanced program administration, Congress showed that it was willing to devote the resources necessary to deliver on the new Congressional commitments.

E. From Bills To Bulldozers: MAP-21 on the Ground

Since the passage of MAP-21, prospective applicants have, at last count, submitted 31 Letters of Interest for MAP-21 TIFIA loans. The most recent we know of is the California Department of Transportation (Caltrans) Letter of Interest for its project in cooperation with Los Angeles County Metropolitan Transportation Authority (LA Metro), the Accelerated Regional Transportation Improvements Project. This project is a critical effort being undertaken in Chairman Boxer's state. While not all of the projects currently seeking TIFIA support may be ready to receive loans this or next fiscal year, they nevertheless reflect a potential demand for TIFIA loans to help in financing projects valued at an estimated $42 billion. And, if all Letters of Interest submitted to date culminate in TIFIA loans, the number of states with projects benefited by TIFIA financing would jump from 15 to 24. Beyond that, we are aware of projects in the pipeline that contemplate submission of ripe Letters of Interest in the next 12 months, increasing further the number of states seeking to participate. There is no reason why every state in the Union, the District of Colombia and Puerto Rico shouldn't be TIFIA borrowers.

As this growing demand demonstrates, states and regional governments are getting Congress' message. They are increasingly looking to the TIFIA program as a key component of their transportation funding and financing plans. Project sponsors are finding new sources of dedicated funding to replace federal grant funds, motivated by the availability of TIFIA assistance. They are doing so in unprecedented numbers, which is exactly what Congress hoped would happen.

TIFIA program administrators are endeavoring to meet the challenges Congress has given it, but in certain important respects they are struggling. We have seen USDOT take positive steps to increase the transparency of the program and to implement MAP-21's requirements for timely processing of applications. We note, for example, that guidance recently issued by the USDOT reflects an aspirational 7½ to 9-month timeframe to process a request for TIFIA credit assistance, commencing from the submittal of a letter of interest to the execution of an approved credit agreement. Yet, much remains to be done.

F. Getting into High Gear

Despite these aspirations, as of this writing, we understand that USDOT has given final approval to only a single new loan under MAP-21, despite no shortage of eligible, creditworthy and shovel-ready projects and despite being more than a year out from the Act's passage. While the success of the TIFIA program absolutely depends on careful and consistent review by USDOT, its success also depends on an efficient and timely

review and approval process that supports the TIFIA program's enormous promise to accelerate project delivery.

These goals are not mutually-exclusive. Instead, with proper parameters and guidance from Congress, as well as sufficient personnel and resources to tackle growing demand for the TIFIA program, we are hopeful that USDOT will institutionalize the administrative improvements made to date and will continue to build upon them.

Among the challenges TIFIA program administrators should be encouraged to continue to resolve, include:

- **Streamline the Pre-Application Process.** The first two steps in USDOT's review process require the submission of a Letter of Interest and a creditworthiness review. Only once a project sponsor succeeds in satisfying all of the statutory eligibility criteria, including creditworthiness, is that sponsor invited to submit an application for TIFIA credit assistance. While this substantive review serves a valuable function, the enormous level of detail that USDOT is requiring at this initial screening stage is tantamount to a full-blown application, but without the statutory deadlines for review and approval of applications imposed by Congress in MAP-21.[1] Frontloading the due diligence in this way effectively prevents the statutory deadlines for processing applications from having the desired effect of speeding projects through to approval and circumvents the statutory rolling application process.

Instituting (and meeting) workable deadlines to complete preliminary review, consistent with the needs of both USDOT and applicants, would help effectuate Congress' intent that applications be timely considered and project delivery be accelerated. Deadlines would also encourage project sponsors to meet the new statutory ripeness requirement, which requires an applicant to demonstrate project readiness.[2]

- **Enhance Bidding Competition With Earlier TIFIA Commitments to Public Sponsors.** It is an important federal policy to maximize robust, open and fair competition. Agencies seeking to procure a contractor that will use TIFIA in its financing are struggling to maximize private sector competition in their procurements because bidders are unsure of the availability of TIFIA. To counter that uncertainty, USDOT should be able to provide conditional commitments or indicative term sheets before final bids are received. These tools would help maximize competitive tension and generate best value in critical mega-project procurements.

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1 Section 2002 of MAP-21 (amending § 602(d) of Title 23 of the United States Code).

2 Section 2002 of MAP-21 (amending § 602(a)(10) of Title 23 of the United States Code) requires an applicant to "demonstrate a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project. . . ."

- **Accelerate Financial Closings.** State officials need to move procurements, start to finish, for projects of regional and national significance through narrow windows of political opportunity. If a project's financing takes too long, the project opportunity as a whole may be lost. Additionally, because lender commitments typically do not run more than 120-150 days from proposal submission, where there are delays in USDOT's due diligence for TIFIA, lender commitments may expire, adding public sector risk, cost and further delay.

Delays can often be attributed to poor integration of the procurement process in TIFIA review. Ensuring the execution of credit agreements within 60-90 days of proposer selection and 120-150 days of proposal submission would minimize risk associated with delayed financial close, while giving USDOT time to complete its necessary due diligence. Coordination with the proposed procurement's schedule is essential for all parties to gain the value of TIFIA and not place their investment or other public dollars at risk.

- **Preserve TIFIA's Value Proposition.** As noted by USDOT's guidance on the TIFIA program, the purpose of TIFIA credit assistance is to provide "improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates than can be found in private capital markets for similar instruments." It is essential that Congress preserve TIFIA's powerful incentives and maintain its flexible loan terms if TIFIA is to continue to "fill market gaps and leverage substantial private co-investment by providing supplemental and subordinate capital."

While USDOT, as the program administrator, might be inclined to integrate more restrictive loan terms into TIFIA credit agreements, I do not believe that the program's track record merits this strategy. To my knowledge, over 15 years and more than 30 loans, there has been only one loan default under the program. Even in that case, the TIFIA program acknowledges that it is positioned to recoup 100% of the original loan balance. In fact, there is a good case to be made that TIFIA has actually made money for the U.S. Treasury, considering that the credit subsidy Congress has made available has far exceeded any risk of loss to date.

TIFIA loans are intended to be subordinate to investment-grade debt, not be investment-grade themselves, except in a very limited circumstance where the principal amount of the TIFIA loan exceeds the principle amount of the senior debt or is the only debt for the project. Loans are intended to allow for sculpting of repayment towards the latter part of the loan's duration. USDOT needs to be encouraged to retain these important features, as they are the hallmark of the TIFIA program.

Moreover, Congress has already put in place powerful safeguards to protect the public interest in making TIFIA loans. Existing protections include: (i) statutory rights granted USDOT as a creditor; (ii) the credit subsidy, which is intended to cover the risk of default; (iii) access to inside and outside experts as part of USDOT's comprehensive due diligence effort; (iv) variable OMB scoring; and (v) the benefit of a portfolio, which spreads the risk across all loans made under TIFIA.

- **<u>Enhance Transparency</u>.** While the USDOT has increased its communications to the public, it remains impossible for public agencies to obtain sufficient information about pending LOIs and applications to understand the extent to which program capacity remains for a given fiscal year. As an example, I have not been able to find out the extent to which the USDOT expects to obligate FY 2013 funds by the end of this fiscal year and its projection of the extent to which it expects to obligate the total credit Congress made available in MAP-21 through FY 2014. There is certainly no shortage of credit being sought. This lack of transparency makes it very difficult for project sponsors to develop financing plans and procurements anticipating the potential use and availability of such a significant financial tool, which is a huge disincentive to the challenge of building the complicated political consensus at the state and regional levels and maturing a project to a level necessary to move it beyond concept to delivery.

Access to current information about the status of pending LOIs, applications and program capacity would assist prospective applicants and help USDOT optimize management of the program. A track record of publicly-available and funded loan agreements would clarify if the USDOT is in fact, as Congress intended, prioritizing loan processing for eligible and creditworthy projects based on project readiness. Up-to-date information would also reveal the extent to which TIFIA should grow further to meet anticipated demand.

Lastly with respect to transparency, we eagerly await a new TIFIA Program Guide, form of application and regulations that reflect the July 2012 adoption of MAP-21. While a new form of application was recently circulated for public comment, we are hopeful that more of this critical material will be finalized quickly.

- **<u>Process Higher Quality Credits More Quickly and Efficiently</u>.** Consistent with Congress' intent, TIFIA applicants dedicate a wide range of revenue sources to repay TIFIA credit assistance. Projects backed by their own future user fees such as tolls generally deserve revenue-specific analysis. Projects backed, however, by sales taxes, other public agency-generated revenues, and/or are structured around availability payments payable from a state's highway fund or other non-project sources deserve a streamlined due diligence and approval process that better reflects the stability and quality of the dedicated revenue stream. This is particularly true of issuers that are themselves investment grade, such as availability payments where a state may already have a sovereign rating. In such circumstances, the LOI stage reasonably need not be more than a determination of legal eligibility and at no stage should the TIFIA Program Office feel compelled to recreate the better-resourced work the rating agencies have already performed.

- **<u>Avoid Rationing</u>.** Despite Congress' express authorization of loans of up to 49% of eligible project costs, to my knowledge, USDOT has yet to even consider a maximum loan amount of more than 33%, despite numerous creditworthy letters of interest asking for exactly that. In fact, the TIFIA Program Office has responded to all such requests with a demand that project sponsors requesting a loan amount of more than 33% of eligible project costs provide an (undefined) rationale for any such request – an obligation not derived from any MAP-21 statutory language. To date, no project

sponsor, to my knowledge, has met this demand. It is unclear whether this USDOT demand is intended to spread out the available credit across more projects, whether administrators feel they can use discretion to impose some unarticulated public policy threshold or standard for the higher amount, or for some other unexplained reason. Whatever the purported justification, Congress authorized this higher amount for those whose creditworthy finance plans could incorporate this amount efficiently. USDOT has, to date, ignored this enhanced authority.

Furthermore, if despite Congress' efforts to size the TIFIA program to meet demand, project sponsors are stepping up to the plate to a greater degree than the program can accommodate, the answer is not to return to the practice of picking winners and losers, or using discretion to limit the amount of TIFIA credit below Congressionally-authorized amounts. Instead, Congress should encourage the USDOT to use up all available credit on the first come, first served basis that Congress reengineered the program to employ for two fiscal years. In that way it could view clearly, with transparent results, the right program size for subsequent fiscal years, recognizing that a successful TIFIA program means ever-more newly dedicated state, local and private monies to replace ever-eroding federal grant support for a system much in need of new capital investment.

Perhaps it is TIFIA's prior incarnation as a more limited and discretionary program that hampers the expeditious administration of the "new-and-improved" MAP-21 TIFIA. USDOT should be encouraged to implement the full extent of Congress' intent and TIFIA's programmatic capabilities by utilizing all of the new tools provided by MAP-21, including the 49% loan amount ceiling and the direction that all eligible and creditworthy projects be approved to the extent of available funding. By administering TIFIA in such a way, USDOT can create a reliable testing environment to help Congress determine whether the program is properly structured and working as intended.

G. <u>Where Do We Go From Here</u>?

MAP-21 is set to expire in September of next year. As Congress starts to focus on the reauthorization of the surface transportation program, certain further improvements of TIFIA can already be anticipated:

- Sizing the TIFIA program to meet demand, the bipartisan direction Congress gave the program under MAP-21, will likely result in an increase in the program's loan capacity. There are more states and more projects every month responding to the signals Congress has sent.

- While not formally in this Committee's jurisdiction, pairing TIFIA with Private Activity Bonds (PABs) remains critically important. The $15 billion cap on the PABs demonstration program will, in all likelihood, be close to exhaustion by expiration of MAP-21.

H. Conclusion

TIFIA has proven to be a powerful incentive for states and local governments to leverage scarce federal funds and encourage the investment of private monies to complete large-scale transportation infrastructure projects across the country that might not otherwise be possible. We encourage this Committee to build upon the momentum created by the enactment of MAP-21 by offering further guidance and parameters to improve the efficiency and transparency of the process by which TIFIA credit assistance is secured. For the revamped and expanded TIFIA Program to fulfill its enormous potential to deliver transportation infrastructure projects of regional and national significance, Letters of Interest must be timely and reliably transformed into concrete commitments. Thank you for the opportunity to offer my recommendations to help achieve this objective. I am pleased to answer any questions and to otherwise assist the Committee in any way.

I. <u>Responses to Questions from Chairman Boxer</u>:

Q1: ***Mr. Yarema, your testimony talks about the great potential of the TIFIA program and how all states should eventually be able to take advantage of this great program. Can you explain if there are things that need to be done administratively or legislatively in the future in order to enable and expand the program, while also maintaining accountability and ensuring that taxpayer funds are utilized in a fiscally responsible manner?***

A1: Congress should continue to follow its policy of sizing the TIFIA program to meet projected demand while maintaining its historical underwriting requirements. These are the two most important points to ensure the TIFIA program reaches its maximum potential while protecting taxpayer interests. In my July 24, 2013 testimony, I detailed seven improvements that should be implemented administratively to facilitate optimized program utilization. I hope the Committee will urge the USDOT to adopt all of those recommendations. This will ensure the transparency needed for Congress and the Administration to manage the program more effectively and to maximize communication to prospective borrowers.

Q2: ***Mr. Yarema, you mentioned how there should be different consideration of projects that have especially high quality credit and revenue sources, such as a sales tax as done by Los Angeles, or availability payments. Why are these revenue sources so favorable and is DOT doing a good job of evaluating the risk of these less-traditional revenue sources for transportation projects?***

A2: Congress very appropriately authorized TIFIA applicants to back creditworthy projects with a wide range of revenue sources, including project-derived sources such as tolls. Without making a value judgment as to which revenue sources are more or less "favorable," a project backed by a dedicated revenue stream that is inherently more stable than future project revenues because it is flows from a sales tax measure or other public agency-generated source, or is structured around availability payments from a state's highway fund, merits a faster-track evaluation. While the USDOT should be discouraged from financing <u>only</u> "low risk" projects – because doing so would dramatically undercut TIFIA's value proposition as a mechanism to provide supplemental and subordinate capital for projects where financing is complicated by project size, complexity and uncertainty over the timing of revenues – more expeditious processing of these types of applications would speed the approval process and minimize duplication of work performed by the rating agencies, without putting the federal government at increased risk of financial loss. Currently, there is no process to allow USDOT to engage in an expedited procedure under these circumstances.

Q3: ***Mr. Yarema, within your testimony you stated that, "If a project's financing takes too long, the project opportunity as a whole may be lost" and adding that coordination is essential for all parties involved to gain the value of TIFIA. Why is coordination so essential and how can these parties coordinate better with each other?***

A3: Getting a mega-project to the point of starting construction is an extremely complicated endeavor. It requires, in almost every case, the culmination of years of coalition-building among many stakeholder groups, including taxpayer groups, user organizations and environmental interests, not to mention state, local and federal officials. Consensus-building on

such a scale is fragile and project proponents must strike when the iron is hot. This means that TIFIA must be able to respond to its borrowers' needs on a time-effective basis.

As but one example, many states and regional governments are utilizing hard-bid procurements to extract from the private sector the most competitive pricing possible for the design, construction, operation and financing of a given project. Those procurements, to be successful, should be able to commence with a conditional TIFIA commitment in-hand, demonstrating to the private sector that the project is real and ready for their best possible bids. When those bids are received, their financial commitments typically expire within 90-120 days of their submission. TIFIA needs to be able to close its financing at the same time as the private sector is. We have been working with the USDOT to create a step-by-step approach that integrates the TIFIA process with the procurement process so these two goals can be achieved while preserving for the USDOT more than sufficient time to complete its due diligence with administrative efficiency and full protection to the taxpayer. It is essential that the USDOT implement these recommended procedures on a programmatic basis.

II. <u>Responses to Questions from Ranking Member Vitter</u>:

Q1: As a firm that has worked on many TIFIA applications, how would you evaluate DOT's current application process? Would you consider the current system an efficient rolling application process? Is it slowing down the delivery of TIFIA projects?

A1: Without speaking for any of our clients with past or pending applications for TIFIA assistance, my impression is that there is considerable room to improve the efficiency and transparency of USDOT's application process. Certainly, as was discussed during the oversight hearing, some of the challenges in timely reviewing and approving TIFIA applications are attributable to levels of staffing that are inadequate to handle the increased demand for TIFIA program assistance. We are encouraged by the statement of Secretary Foxx that the USDOT is expanding its staffing to help move projects through the pipeline.

However, not all inefficiencies in the TIFIA review and approval process can be chalked up to limited resources. For example, Secretary Foxx indicated in his July 24, 2013 testimony before this Committee that USDOT is "frontloading a lot of the effort on the credit worthiness" review so that applications, which must be invited by USDOT, can be approved more quickly. This approach is concerning because it moves substantive consideration of eligibility into a lengthy pre-application review phase unfettered by Congressional deadlines. This circumvents the timeliness requirements imposed by Congress in MAP-21 and undermines the effort to ensure expeditious consideration of projects seeking TIFIA assistance. If the pre-application review phase is taking as long or longer than review of applications before MAP-21's reforms were instituted, then USDOT's current review process may be slowing down the delivery of TIFIA projects.

Other inefficiencies exist where USDOT may be injecting subjectivity into the review and approval process. As you, Senator Vitter, astutely observed during this Committee's July 24, 2013 oversight hearing, dozens of project applications pending in the pipeline raises the concern that subjective factors will dictate which projects move forward – in contrast to a true rolling application process where each application is evaluated and approved on its own merits. That concern appears to have been validated to some degree by Secretary Foxx's comments in connection with the authorized loan amount limit. The Secretary indicated that USDOT was "pretty insistent" on keeping loan amounts limited to 33%, despite the fact that Congress raised

the 33% ceiling in MAP-21 to 49% of eligible project costs without changing the creditworthiness requirements. The Secretary's justification for doing so – "to use that capacity to do projects in rural America (sic) and other parts of the Country" – while meritorious, reflects an exercise of administrative discretion by USDOT where Congress did not vest it. If TIFIA applications are taking longer to be evaluated and approved because USDOT does not find an application requesting 49% participation to be sufficiently "compelling," then USDOT's current review process may be slowing down the delivery of TIFIA projects.

These and other inefficiencies in the TIFIA review and approval process may be addressed and ameliorated by the administrative improvements and recommendations set forth in my original testimony, as well as certain of the suggestions made by the other distinguished panelists before this Committee's July 24, 2013 oversight hearing.

Q2: ***As a result of the current program delays, are you seeing any significant changes to project fundamentals throughout the approval process?***

A2: Without identifying any individual TIFIA applicant or project, we are seeing changes in project fundamentals resulting from delays in the review and approval process. State and regional transportation agencies that are moving projects promptly – exactly what Congress would want – have been frustrated by procedural delays and lack full confidence in USDOT's ability to timely deliver TIFIA participation. As a result, some projects are moving forward to financing without TIFIA support or are being structured in a way so as to allow TIFIA participation to come in later – on TIFIA's schedule. The consequence in the former case is that taxpayers are not getting the benefit of TIFIA to leverage significant private investment that they would be able to achieve otherwise. In the latter case, significant inefficiencies result from having to accommodate TIFIA after financial close. These circumstances impede individual projects and prevent the TIFIA program from fulfilling its enormous potential to deliver transportation infrastructure projects of regional and national significance.

Q3: ***Since the majority of the projects submitted their LOI (letter of intent) a year ago, what has been the effect of the increase in interest rates?***

A3: Senator Vitter, I would defer to the expertise of investment bankers and chief financial officers to provide a response to this question.

Senator BOXER. Art Leahy, happy to see you. Please proceed.

STATEMENT OF ARTHUR T. LEAHY, CHIEF EXECUTIVE OFFICER, LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

Mr. LEAHY. Senator, it is a pleasure to be here.

Chair Boxer, Ranking Member Vitter, members, thank you for having us. Thank you for having the panel today. We always appreciate the work of the Committee.

Los Angeles County Metro, Metropolitan Transportation Authority, is what we call in California a self-help county. We have sales tax measures, voter-approved sales tax measures, which have a duration of 30 years. The voters vote for those projects because included in the tax measure will be list of projects, a list of deliverables. So, we will be held accountable by the taxpayers of LA County to deliver those projects.

The TIFIA Program is of great assistance to us. There is a TIFIA loan on our very important Crenshaw/LAX Light Rail project, and I am pleased to say that we have been invited, just a few weeks ago, to apply for a large TIFIA loan for our subway, the Purple Line out to the west and the regional connector in downtown Los Angeles.

These projects will be substantially paid for with local voter-approved sales taxes. But what TIFIA does is allow, it allows us to accelerate these projects, to get the benefit quicker, it allows us to save some money to deliver more projects. and it helps improve our credibility with our taxpayers so that they will approve future sales tax measures as appropriate.

By the way, to get a sales tax measure approved in California requires a two-thirds vote. So, it is very important to us that we deliver the goods and that we earn the trust and confidence of our taxpayers.

I will not go through the points that have already been made but a number of them are very important and we hope the Committee considers them.

We think that the TIFIA Program helps transportation dollars go further. We know that this will help us create jobs. The two projects that I just mentioned are going to create 40,000 jobs in Los Angeles. Not all of those jobs will be in LA. Some of them will be all over the Country. But we know that the TIFIA Program allows us to deliver the projects faster, we know it allows us to create jobs.

So with that, Senator, or Chair Boxer, I will close and thank you again, Ranking Member Vitter, for having me.

[The prepared statement of Mr. Leahy follows:]

Testimony of Arthur T. Leahy
Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority

Oversight Hearing On Implementation of MAP-21's
TIFIA Program Enhancements

U.S. Senate Committee on Environment and Public Works
Dirksen – Room 406
Wednesday - July 24, 2013

Thank you Chairman Boxer and Ranking Member Vitter for inviting the Los Angeles County Metropolitan Transportation Authority (Metro) to provide testimony at this timely hearing regarding the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

Metro has enjoyed an outstanding working relationship with this committee for many years – owing to the remarkable leadership of Chairman Boxer and the bi-partisan spirit that has driven this committee to adopt meaningful legislation – like MAP-21 and most recently the Water Resources Development Act. In many ways, this committee's record of

achievement offers a welcome blueprint for the rest of the Congress.

We are particularly pleased to testify today on the merits and benefits of the TIFIA program. This federal program, which provides direct loans and potentially other forms of credit assistance for major infrastructure projects throughout the nation, has played and hopefully will continue to play an important role in the expansion of mobility across Los Angeles County.

In tandem with discussing the importance of the TIFIA program, I believe it is productive to recognize the importance of non-federal investments in transportation - state, local, and private and how those funds are leveraged – sometimes dramatically - by TIFIA loans.

The voters of Los Angeles County have clearly elected, on three separate occasions, to tax themselves to create more mobility for their families and their communities.

Starting in 1980, Los Angeles County voters chose to support a half-cent sales tax on retail sales to support transportation improvements. This was repeated in 1990 with the passage of another sale tax measure.

Most recently, in the middle of our recent economic downturn, Los Angeles County residents – by a two-thirds margin [67.9%] – voted in November of 2008 to authorize an additional half-cent sales tax, Measure R, to fund specific transit and highway projects.

Taken together, these three sales taxes represent the commitment of Los Angeles County taxpayers to invest approximately $1.5 billion annually to improve our transportation system.

I believe it would be helpful if policymakers in Washington, and specifically this committee, are mindful of the local leadership shown by our agency and Los Angeles County

taxpayers, along with others like us across the nation, when discussing TIFIA and other federal transportation programs.

One of the most concise and accurate comments about the TIFIA program that I have heard was offered by former Transportation Secretary Ray LaHood.

At an event in Los Angeles held on October 22, 2011 to announce a $546 million TIFIA loan for the Crenshaw/LAX Light Rail transit project – Secretary LaHood said the following:

"....TIFIA helps our transportation dollars go further."

This was true for the Crenshaw/LAX transit project and is, broadly speaking, true for the dozens of projects being built today due to the availability of smartly designed TIFIA loans. The Crenshaw/LAX TIFIA loan was closed when the indexed rate was 2.43%, a fantastic boost to our agency's ability to deliver the project promised to our voters.

It is for this reason that we are grateful to this committee – led by Chairman Boxer and then-Ranking member Inhofe – for dramatically increasing the authorized funding for the TIFIA program.

MAP-21, under the innovative finance title – America Fast Forward - made several essential reforms of the TIFIA program, some of which I would like to highlight in my testimony.

First, it increased, nearly ten-fold, the funding authorization for the TIFIA program, enabling the U.S Department of Transportation (USDOT) to provide greater financing assistance to a larger volume of major projects.

Second, MAP-21 authorized the USDOT to provide upfront *contingent* credit commitments for certain large projects or programs of related projects that will be phased in over a

period of several years, by means of a *Master Credit Agreement*. We believe this *Master Credit Agreement* mechanism, when implemented by the USDOT, will mitigate risk by providing greater predictability in the financial planning for such large initiatives and help the USDOT manage the TIFIA project pipeline. It is important to note that USDOT's provision of a formal credit commitment in the form of a TIFIA loan to an eligible project referenced in a *Master Credit Agreement* still will be subject to satisfaction of all necessary federal requirements and the availability of future program funding.

Lastly, I want to highlight that MAP-21 authorizes USDOT to provide TIFIA loans with a fully subordinate lien on pledged revenues if certain conditions are met. Before this provision was drafted into law, "springing lien" provisions in TIFIA agreements made it problematic for governmental borrowers with ongoing capital programs and outstanding senior

bondholders to take advantage of the TIFIA program's flexible payment features. This is because it frequently is very difficult or impossible to retrofit a junior TIFIA loan with a "springing lien" into an existing bond indenture. Having to issue a TIFIA loan on the senior lien instead on parity with existing senior bondholders significantly reduces the value of the TIFIA financing in expanding state and local agencies' financing capacity.

Moving forward, based on the tremendous success in bolstering the TIFIA program in MAP-21, we have included a robust level of TIFIA loans in an ambitious plan our Board of Directors has crafted to accelerate the construction of major highway and transit projects across Los Angeles County.

Specifically, over the coming years we will be seeking up to $2.5 billion in TIFIA loans for mobility boosting transit projects and up to $1 billion in TIFIA loans for highway

projects designed to manage Los Angeles County's infamous freeway congestion. I say "up to" because interest rates are continuing to rise and construction bids are showing a recovery. Clearly, the window to secure vital infrastructure at discounted costs may be closing and so the processing of current TIFIA applications now is of particular importance.

In a welcome development, on July 11, 2013 the USDOT's Acting Chief Financial Officer Sylvia Garcia formally invited Metro to apply for just over $1 billion in TIFIA loans for the Purple Line Extension ($856 million) and Regional Connector ($160 million) projects.

Our staff has been seeking these loan invitations, which are consistent with the financial forecast for Metro's Long Range Transportation Plan since late last year.

In response to the USDOT's invitation, I have directed my staff to submit our formal TIFIA application in the next several weeks. And I should note that we have found

continuous improvement in the USDOT's TIFIA process since the passage of MAP-21.

As we did with the Crenshaw/LAX Light Rail Transit Project TIFIA loan – we will work diligently with our federal partners to conclude the TIFIA loans for the Westside Subway Extension and Regional Connector by early in 2014.

Let me conclude by expanding on Secretary LaHood's comment that "TIFIA helps our transportation dollars go further."

I would go further yet. TIFIA helps our national economy expand.

TIFIA is a job generator – allowing projects that would otherwise not pencil out - or advance slowly over many years – to move from the drawing board to construction.

The well respected Los Angeles County Economic Development Corporation has studied a number of Metro's proposed transit projects.

As part of their study – they concluded that two of the projects that we are about to begin construction on – thanks in part to TIFIA loans – will generate over 40,000 jobs across the nation. The Regional Connector is expected to generate over 17,000 jobs nationwide and the first phase of the Purple Line Extension in Los Angeles is expected to generate over 25,000 more jobs nationwide.

These statistics – about these mostly private sector construction jobs – offer fresh evidence of the wisdom this committee has exercised in expanding the TIFIA program.

TIFIA is a cost-effective job engine that supports the economy and enhances the national transportation system. It represents a budgetarily efficient way for the federal government to support major infrastructure investments sponsored by state and local governments. The MAP-21

reforms should enable the USDOT to responsibly grow the program and utilize it more effectively for the benefit of both local users and the general public.

I encourage the committee to continue its close partnership with the USDOT to ensure full implementation of the TIFIA reforms in MAP-21.

I especially look forward to the implementation of procedures that will permit sponsors of large projects or programs of related projects to develop financial plans and structure TIFIA assistance through *Master Credit Agreements*, as outlined in MAP-21.

I would again like to thank the committee and especially Chairman Boxer and Ranking member Vitter for inviting Metro to provide testimony before the committee. I would welcome the opportunity to answer any questions members may have about our experience with TIFIA.

Senator BOXER. Thank you so much.

And next we turn to Mr. James Roberts, President and CEO of Granite Construction Incorporated.

It is nice to see you.

STATEMENT OF JAMES ROBERTS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, GRANITE CONSTRUCTION INCORPORATED

Mr. ROBERTS. Good morning. It is a pleasure to be here.

As you mentioned, my name is Jim Roberts and I am the President and Chief Executive Officer of Granite Construction Incorporated, a California-based company that over the past 90 years has built thousands of roads, tunnels, bridges, airports and other infrastructure-related projects used by millions of people every day.

I am here today representing the Associated General Contractors of America, better known as AGC, a national association of 26,000 businesses involved in every aspect of construction with 94 Chapters representing members in every State.

As this Committee is well aware, our transportation investment needs are great and the funds to fix the problem are running short. While not the subject of today's hearing, the very real concern about the solvency of the Highway Trust Fund weighs heavily on the construction industry and we urge you to address this problem sooner rather than later.

Senator BOXER. Thank you.

Mr. ROBERTS. The solution to meeting our transportation infrastructure needs is two-fold. First, Congress and the Administration must work together in a bipartisan way to increase user fees and identify new revenue sources to address our transportation needs both now and into the future.

Second, there must be more private sector involvement in the construction of transportation projects. AGC believes the Transportation Infrastructure Financing Innovation Act Program has a prudent record of accomplishing this objective. TIFIA has been successful in filling market gaps and leveraging co-investment by providing eligible projects with supplemental or subordinate debt.

Throughout its history, State and local governments, other public authorities as well as private entities including contractors undertaking large-scale construction projects have taken advantage of secured loans, loan guarantees or lines of credit provided through TIFIA. Thankfully, through the bipartisan leadership of Chairman Boxer and the other members of the Environment and Public Works Committee, Congress provided the TIFIA Program with a substantial increase in budget authority in MAP–21.

Granite is proud to have supported the construction of various TIFIA-facilitated projects since the inception of the program. Specific projects include the Central Texas Turnpike System and the 183(a) projects in Texas, the Reno re-track in Nevada, the Triangle Expressway in Raleigh-Durham, North Carolina and the Inter-County Connector in Maryland. TIFIA credit assistance on these efforts totaled $2.4 billion which generated $9 billion worth or work.

We are currently on teams building the IH 35 East LBJ Expressway in Dallas, $845 million, the Tappan Zee Bridge in New York,

$3.1 billion, and the US 36 managed lanes between Denver and Boulder, Colorado, $359 million, all of which are currently seeking TIFIA financing.

The construction industry benefits from TIFIA financial assistance because it allows transportation projects to actually move forward. Many of the projects that receive TIFIA financing have been built using the design build contracting method. Under the design build, contractors are selected based on a technical proposal and price.

The up-front financial costs a contractor undertakes in putting together a complex design build project are significant and can exceed 1 percent of the overall value of the project. If the project does not move forward because of a lack of funding, the contractor's preliminary investment may be lost. Repeated losses will eliminate qualified contractors from pursuing these projects, thereby eliminating competition.

Granite has established processes for identifying, tracking and selecting opportunities that fit our business model and risk profile. Project funding is a key, significant factor in the process. Dedicated financing sources such as TIFIA demonstrate to us that the owner is committed to awarding the project which allows us to be more likely to submit a proposal.

Despite the clear priority that was given to the TIFIA Program in MAP–21, AGC is concerned that here has been a noticeable slowdown in the award of TIFIA financing since MAP–21 was enacted. It appears the DOT is being extremely cautious in approaching the approval of TIFIA financing on individual projects.

AGC recognizes that DOT must take seriously its fiduciary responsibility in overseeing projects that are awarded TIFIA financing. Awarding financing to a project that ultimately has financial problems and puts the Government at risk for a financial loss is not in the best interests of the program. However, it is equally problematic to be over-cautious, slow and bureaucratic in making the financing decision.

The past success of the TIFIA Program and the promise that it provides in the future should not be undermined by an inefficient process. AGC believes some adjustment can be made to the program so that it operates more openly and efficiently.

DOT should redirect more personnel to the TIFIA review team. DOT should not hold all decisions on TIFIA awards until a record of decision on the project has been issued. This, in particular, seems to be contrary to the current review requirement that is found elsewhere in MAP–21. DOT should develop educational tools and technical advisors to assist States that lack the experience in applying for this assistance. There must be full transparency in the project selection process to encourage States that continue to make applications. TIFIA should be available to help establish an investment grade rating for projects that are close but ultimately unable to do so on their own.

AGC encourages DOT to accept these recommendations. This will help move vital projects to construction. While it is still critically important and the Administration address the long-term solvency of the Highway Trust Fund, we must also assure that programs

like TIFIA, which help provide financing to fill some of the funding shortfall, are operated as efficiently as possible.

Thank you for allowing AGC to present our views on TIFIA to this Committee and I welcome your questions.

[The prepared statement of Mr. Roberts follows:]

Testimony of

Jim Roberts
President and CEO
Granite Construction Inc.

on behalf of
The Associated General Contractors of America

presented to the

Committee on Environment and Public Works
United States Senate

on the topic of

Transportation Infrastructure Finance and Innovation Act

July 24, 2013

AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 26,000 firms, including 6,600 of America's leading general contractors, and over 9,300 specialty-contracting firms. More than 10,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. Visit the AGC Web site at www.agc.org.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
2300 Wilson Boulevard, Suite 400 • Arlington, VA 22201 • Phone: (703) 548-3118 • FAX: (703) 837-5407

My name is Jim Roberts and I am President and Chief Executive Officer of Granite Construction Incorporated. Granite is a California-based company that over the past 90 years has built thousands of roads, tunnels, bridges, airports and other infrastructure-related projects used by millions of people every day. Today, Granite is a $2 billion company working in 25 states for both public and private sector owners in the transportation, power, federal, tunneling, underground, industrial/mining and water resources markets. Granite is a leader in our industry, thanks to the commitment and contributions of our approximately 5,000 employees nationwide. I am here today representing the Associated General Contractors of America, a national association of 26,000 businesses involved in every aspect of construction, with 94 chapters representing members in every state.

AGC and Granite strongly believe that the Transportation Infrastructure Finance and Innovation Act (TIFIA) program expansion included in MAP-21 comes at a time when the nation's transportation network needs major capital investments. We also believe the program has a proven track record that can build on its success if the process is streamlined and accessible.

The TIFIA program is designed to provide federal credit assistance to eligible surface transportation projects, including highway, transit, intercity passenger rail, some types of freight rail, and intermodal freight transfer facilities. TIFIA has been successful in filling market gaps and leveraging private co-investment by providing eligible projects with supplemental or subordinate debt. Throughout its history, state and local governments, other public authorities, as well as private entities – including contractors – undertaking large scale construction projects have taken advantage of secured loans, loan guarantees, or lines of credit provided through TIFIA. Unfortunately, the budget authority provided to the program prior to MAP-21 was not enough to meet demand and, based on demand since MAP-21 passed; it probably still lags well behind overall needs.

Thankfully, through the bipartisan leadership of Chairman Boxer and the other members of the Environment and Public Works Committee, Congress provided the TIFIA program with a substantial increase in budget authority in MAP-21. The authorization provided the TIFIA program budget authority of $750 million for FY 2013 and $1 billion for 2014, which has the potential to provide $17 billion of lending capacity over fiscal years 2013 and 2014.[1] However, if project approvals do not come more rapidly, the potential of this program may unfortunately go unrealized. The possibility of injecting over $17 billion into the transportation construction market over the next two years is a very important potential source of infrastructure investment, considering the significant transportation infrastructure needs and the uncertainty of federal, state and local infrastructure spending.

Granite, like other contractors involved in the transportation construction market, relies on the predictability of the public sectors' bidding schedules to target opportunities that determine our resource and capital investment requirements throughout the country. Returning to a five-year, inflation indexed funding program in the upcoming reauthorization is critical to the continued build-out of the nation's surface transportation needs. Greater predictability in funding will enable contractors such as Granite to invest in hiring, training and developing our workforce to build our nation's infrastructure.

Like other construction companies in the transportation business, Granite supports continued federal investment in highway and public transportation. The level of investment that is currently provided from the Highway Trust Fund is in jeopardy. The Congressional Budget Office estimates show the Highway account revenues can support no more than $3.1 billion of new obligations in fiscal year 2015 – a 92 percent decrease from the $40 billion authorized level in fiscal year 2014. The Mass Transit

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[1] U.S. Department of Transportation, Federal Highway Administration, TIFIA Questions and Answers

Account would be unable to fund any new transit obligations in FY 2015. These are real problems independent of the TIFIA program that Congress must address. While it is not central to this hearing, the funding uncertainty weighs heavily on the minds of the thousands of AGC members like Granite who have worked for decades to build the world's best transportation network.

Since the creation of the Interstate Highway System in 1956, the Highway Trust Fund has been supported by revenue collected from users. This 'pay-as-you-go' system has served America well, allowing States to plan, construct and improve America's surface transportation infrastructure. AGC has long-supported maintaining the user-fee model for providing Highway Trust Fund revenue – including taxes on gasoline and diesel fuel – and encourages Congress to act immediately to provide the revenue necessary to fill the Highway Trust Fund revenue gap we will face in fiscal year 2015 and beyond. User fees and taxes have not been increased in twenty years. For the past five years, the revenue going into the Highway Trust Fund has fallen short of what is needed to even maintain the existing investment levels. By the expiration of MAP-21, the Highway Trust Fund will have received over $53 billion in transfers from the general fund simply to meet its obligations.

The solution to meeting our transportation infrastructure needs is twofold. First, Congress and the Administration must work together in a bipartisan way to increase user fees and identify new revenue sources to address our Highway Trust Fund solveny, both now and in the future. The simplest, quickest, and most efficient way to generate the revenue needed for the federal highway and transit programs would be to increase the federal tax on gasoline and diesel. Sadly, this obvious option is often dismissed by some leaders in Washington. AGC and other transportation stakeholders are currently engaged in lobbying efforts to include an injection of revenue into the Highway Trust Fund as a component of comprehensive tax reform. Whether it is tax reform, deficit reduction or debt ceiling packages, Highway Trust Fund solvency must be a component of any final deal. Second, there must be more private-sector involvement in the construction of transportation projects. There is a growing interest in public-private partnerships (P3s) and other innovative financing tools that can help deliver many of our nation's most challenging transportation needs, and federal credit programs like TIFIA can help attract private investors for these projects. It must be stressed; however, that P3s and programs like TIFIA should never be considered as a substitute for the "user pays" funding system. The number one priority for Congress and the Administration must be to ensure the short-term and long-term solvency of the Highway Trust Fund.

In addition, the TIFIA program is an important tool in the proverbial toolbox and has been tested over the last 15 years. It has a great opportunity to expand its impact on transportation infrastructure investment. Since the TIFIA program was created, it has helped finance mostly large construction projects. To date, 33 construction projects throughout the country have received TIFIA credit assistance. The cumulative cost for the projects is $43.8 billion, and the financing credit provided from TIFIA amounts to over $11 billion. The majority of these projects are highway projects with seven being transit and five being intermodal. It should be noted, however, that only 2 projects have received TIFIA credit assistance since MAP-21 was approved last year.

Granite is proud to have supported the construction of various TIFIA-facilitated projects since the inception of the program, including the Central Texas Turnpike System and the 183-A projects in Texas, the Reno Re-Track in Nevada, the Triangle Expressway in Raleigh-Durham, North Carolina, and the Intercounty Connector in Maryland. TIFIA credit assistance on these efforts totaled $2.4B, which generated $9B of work. We are currently on teams building the IH-35E (LBJ Freeway) for TxDOT in Dallas ($845MM), the Tappan Zee Bridge in NY ($3.1B), and the US-36 Managed Lanes between Denver and Boulder, CO ($359MM) – all of which are currently seeking TIFIA financing.

Other major projects supported by TIFIA include Denver Union Station, Port of Miami Tunnel, I-495 HOT lanes in Northern Virginia, and the Cooper River Bridge in Charleston, SC. It is clear that TIFIA also attracts other private investment in these large-scale projects. According to the Government Accountability Office, as of April 2012, roughly one-third of the 33 approved projects that included a TIFIA credit agreement are P3s that include private equity investments. For these projects, private equity accounts for about 17 percent of total project costs. In simpler terms, 17 projects with TIFIA credit agreements include either private equity or debt. The average private investment for these projects is 37 percent of total project costs.[2]

As I mentioned earlier, the money in the Highway Trust Fund is not meeting the needs and demands of our national transportation system. States can barely provide simple maintenance, let alone add capacity or fund projects of regional or national significance. TIFIA credit agreements coupled with private and other sources of funding and financing, helps states better prioritize their funding to focus on their respective transportation needs.

In the last Congress, there was bipartisan recognition of the benefits of TIFIA. By increasing the budget authority of TIFIA, MAP-21 began laying the foundation for the approval of more TIFIA loans. In addition to the increase in budget authority, MAP-21 made meaningful reforms to TIFIA with the goal of streamlining the application process and expanding the pool of eligible projects. These reforms included: increasing the coverage of eligible costs that can be financed through TIFIA from 33 percent to 49 percent; rolling the application process; eliminating selection criteria; and adding eligibility for rural infrastructure projects.

These and other reforms to TIFIA appear to be very helpful and would likely result in greater opportunities for companies like Granite to work on major projects; however, there has been very little guidance from DOT on how the program has changed since MAP-21. For example, just last week DOT provided on the TIFIA website the new application and Letter of Interest process. More guidance from the agency on these reforms would greatly help states understand the process. The criteria in MAP-21 for TIFIA assistance was simple, clear and flexible enough to allow a variety of different projects to be approved. But in order for the program to succeed, grow, and gain more credibility - as was the intent of MAP-21 - it would also be very helpful if there is significant geographic diversity and transparency in the project selection process.

The traveling public and the construction industry benefit because TIFIA financial assistance often provides that critical component that allows transportation projects to move forward. Many of the projects that receive TIFIA financing have been built using the design-build contracting method. Under design-build, contractors are selected based on a technical proposal and price. The "up front" costs a contractor undertakes in putting together a complex design-build project are significant and can easily reach $2 million on a $100 million project. If the project does not move forward because of lack of funding, the contractor's initial investment is lost. Repeated losses will eliminate qualified contractors from pursuing the work, thereby decreasing competition.

Granite has established processes for identifying, tracking and selecting opportunities that fit its business model and risk profile. Project funding is a key, significant factor in the process. Dedicated financing sources such as TIFIA demonstrate to us that the owner is committed to awarding the project. Granite has pursued projects that contained TIFIA commitments already in-place, pre-bid, as well as projects such as the Tappan Zee Bridge Replacement, the IH 35E (LBJ Freeway), and the I-4 Ultimate in

[2] GAO Surface Transportation Report 12-641

which the owner has submitted a TIFIA Letter of Intent. In each of these events, the design-build team feels confident in commiting to the project because the discipline imposed by the TIFIA process assures that the Owner will fully fund the project.
In order to get the best proposals from the industry, it is important that there is some certainty that projects will move forward. AGC believes that TIFIA reduces the uncertainty and therefore adds to the likelihood that P3 projects will move forward. Streamlining the approval process using concurrent reviews as proposed in other sections of MAP-21 would enhance project delivery.

Despite the clear priority that was given to the TIFIA program in MAP-21, AGC is concerned that there has been a noticeable slowdown in the award of TIFIA financing since MAP-21 was enacted. It appears that DOT is being extremely cautious in approaching the approval of TIFIA financing. AGC recognizes that DOT must take seriously its fiduciary responsibility in managing the funds in this program and overseeing projects that are awarded TIFIA financing. Awarding financing to a project that ultimately has financial problems and puts the government at risk for a financial loss is not in the best interest of the program. However, it is equally problematic to be overly cautious, slow, and bureaucratic in making the financing decision. The past success of the TIFIA program and the promise that it provides in the future should not be undermined by an inefficient process. AGC believes some adjustments can be made to the program so that it operates more efficiently, such as:

- DOT should redirect more personnel to the TIFIA review team.
- DOT should not hold all decisions on TIFIA awards until a record of decision on the project has been issued. This, in particular, seems to be contrary to the concurrent review requirement that is found elsewhere in MAP-21.
- More states need to take part in this program. DOT should develop educational tools and train technical advisors that will help states in applying for this assistance.
- There must be full transparency in the project selection process to encourage states to continue to continue applying. If there are any credibility concerns with project selection, it will undermine the entire program. Also, project selection should not be overly politically influenced.
- There should be a one-to-one-correspondence effort made to make project approvals and project starts get underway in a single construction season.
- TIFIA should be available to help establish an investment grade rating for projects that are close to meeting that rating but ultimately unable to do so on their own.
- The TIFIA program guide on the agency website needs to be finalized for all projects so that individuals have confidence that they can act on the guidance.

It cannot be overstated as to how important it is that the expanded TIFIA program demonstrate success as Congress begins looking at the reauthorization of MAP-21. The fact that 31 Letters of Interest have been submitted to DOT and only two have been approved since the enactment of MAP-21 last summer is of deep concern to those of us who want the program to succeed and grow.

AGC believes that the improvements to the TIFIA program made in MAP-21, including the significant increase in available credit assistance, are important strides in bringing non-traditional financing to the table and assisting states in addressing their overall transportation funding needs. We also believe that expediting project approvals on transportation projects is another hallmark of MAP-21. We hope that the combined benefit of those efforts will lead to a process for reviewing and approving TIFIA financing

requests that is quick enough to both protect the public and provide critical infrastructure. We hope that the rural component builds up a track record that shows that the program is not too cumbersome for small projects. We also hope that the transparency of the project selection process works to enhance the credibility of the program.

AGC encourage DOT to adopt the recommendations we have made. This will benefit the nation's economy and create jobs by moving vital projects to construction and addressing some of the Nation's overwhelming transportation needs. While it is still critically important that Congress and the Administration address the long-term solvency of the Highway Trust Fund, we must also assure that programs like TIFIA, which provide the financing to fill some of the funding shortfall, are operated as efficiently as possible.

Senator Barbara Boxer

1. **Mr. Roberts, your company is clearly involved in a number of large-scale projects that are benefiting from the TIFIA program.**

   Can you discuss how the expanded TIFIA program in MAP-21 is enabling mega-projects to be built that otherwise would not be able to, and what this means for your industry and jobs?

2. **Mr. James, you discussed in your testimony the need for greater geographic diversity and transparency with the project selection process of TIFIA.**

   Can you expand on this and describe how you foresee more states across the country using the TIFIA program?

1. TIFIA has traditionally and continues to be a vital part of financing large-scale construction projects. To date 33 construction projects throughout the country have received TIFIA credit assistance. The financing credit provided from TIFIA amounted to $11 billion, which generated more than $43 billion in new work. The authorization for TIFIA provided in MAP-21 of $750 million for FY 2013 and $1 billion for FY 2014 has the potential of injecting an additional $17 billion in lending capacity into the transportation construction market. Using the same lending credit to new work ratio noted above, $17 billion in lending capacity has the potential to generate more than $60 billion in additional new work, a much needed shot in the arm to an industry that has been forced to lay off tens of thousands of its workers during this economic downturn. Unfortunately, only 2 projects have received TIFIA credit assistance since MAP-21 was approved last year, so it is not possible to quantify the impacts of the expanded program.
2. Thirty-three states, the District of Columbia and Puerto Rico have submitted Letters of Interest for projects that vary by mode and purpose. Projects in 12 states, the District of Columbia and Puerto Rico have been approved for TIFIA credit assistance. The reforms made in MAP-21 have the potential to begin laying the foundation for the approval of loans in more states by streamlining the application process and expanding the pool of eligible projects. A key component of the reforms is adding the eligibility for rural infrastructure projects. DOT should develop educational tools and train technical advisors that will help states in applying for this assistance. There must be full transparency in the project selection process to encourage states to continue applying. If there are any credibility concerns with project selection, it will undermine the entire program.

Senator David Vitter

1. **Are the current administrative delays in TIFIA adding costs to the bottom line of projects? If so, can you estimate that total cost on all your pending projects?**

1. Delays don't necessarily add hard cost to the bottom line of a project. However, most of the TIFIA funded jobs are Lump Sum and Time Certain projects. So delays do add risk, and many times costs, to accelerate and overcome the delays. Additionally, delays oftentimes add costs of the procurements of these projects, which is reflected in additional SG&A costs and less gross margin or increased mark-ups on future work. It is difficult to estimate this cost individually or in total, but on any given project, the cost of delays could be significant enough to kill the project.

Senator Jeff Sessions

1. **Mr. Roberts, are you seeing an uptick in your business related both to the certainty of reliable federal funding and to the expanded TIFIA program?**
2. **Understanding only 11 states have taken advantage of TIFIA loans, from your company's perspective, would you like to see more states participate in the program?**
3. **What percentage of projects would you estimate could qualify for TIFIA assistance?**
4. **Your testimony says that a construction contractor will spend as much as $2 million in putting together a design-build proposal for a project valued at $100 million. Why is it so costly to put together a proposal and is the contractor reimbursed for those costs?**

1. We are seeing more projects being conceptually designed, searching for funding and financing such as TIFIA. There are more Regional and National level projects being contemplated than we have seen in years. The progress of these projects has slowed in 2013 due to funding and financing issues. We are hopeful these issues will be worked out so these projects can be put out to bid and expeditiously built. There is no doubt that there is tremendous need and a backlog of projects due to a lack of investment in the infrastructure over the last several decades.
2. In the 25 states that we work in, the more projects that qualify for TIFIA the better for the market. As has been mentioned, MAP-21 made significant reforms to the program to encourage greater participation. But the simple fact is more states need to take part in the program. As I stated in my testimony, DOT should develop educational tools and train technical advisors that will help states in applying for assistance.
3. It is difficult to estimate what percentage of projects could qualify for TIFIA assistance. Traditionally TIFIA only covers a small percentage of projects based on the criteria to qualify for TIFIA credit assistance. The meaningful reforms enacted in MAP-21 have the potential for increasing the number of projects eligible to qualify for TIFIA assistance. What is clear is that the percentage is small and that the importance of solving the Highway Trust Fund revenue shortfall should be the number one priority of Congress.

4. Costs include hiring a design consultant to put together a preliminary design, time spent by Granite employees working on the design and estimating the cost of the construction, as well as office overhead costs. On larger projects we can have over 50 employees working full time on a project. There are some projects that provide a stipend for the unsuccessful bidders. The stipend is typically not great enough to cover all of the pre-bid costs but usually does cover "out of pocket" expenses for the contractor. In these cases we typically end up spending about 50% of the overall costs and the stipend covers close to the other 50%.

Senator BOXER. Thank you so much.

And last, but not least, Mr. D.J. Gribbin, Managing Director of Macquarie Capital.

Welcome.

STATEMENT OF D.J. GRIBBIN, MANAGING DIRECTOR, HEAD, GOVERNMENT ADVISORY AND AFFAIRS, MACQUARIE CAPITAL

Mr. GRIBBIN. Thank you, Madam Chairwoman, and thank you, Senator Vitter, for the opportunity to testify today about the impact that TIFIA has had.

By way of introduction, I am a Managing Director at Macquarie Capital and Head of our government advisory and government affairs practice here in the United States. Macquarie is the world's largest private sector investor in infrastructure. We have been particularly successful in developing P3 projects here in the U.S. Since 2008, Macquarie has been successfully involved in two-thirds of all large P3 projects, which have a total asset value of about $14.4 billion.

Prior to joining Macquarie, I served as a Chief Counsel of the Federal Highway Administration and as a General Counsel at the U.S. Department of Transportation. As a result, I have the privilege of working with TIFIA from both the public policy and private transactional perspectives.

Art, Jim and James covered the benefits of TIFIA so I will not talk about those. In my remarks what I would like instead is to cover three topics, the benefits of TIFIA that extend beyond just finance, the need for administrative reform of the loan approval process, and the importance of a portfolio approach to lending.

First, TIFIA has done more than just provide additional capital for transportation infrastructure. TIFIA encourages prioritization of project selection, innovation in project finance and considerable creativity in project delivery. In short, the TIFIA success story goes far beyond the $11 billion invested in $43 billion worth of projects.

At its most basic, just the fact that borrowers have to repay funds encourages sponsors to select projects that will produce a return on investment. Federal financial support that has to be repaid, especially projects repaid with toll revenue, brings significant discipline to the project selection process, avoiding the challenge of bridges to nowhere.

While the increased funding for TIFIA was extremely helpful to the program, I would encourage the Committee to allow the Department to use some policy criteria for awarding loans and not have TIFIA just morph into a broad grant-like program that subsidizes every project. Simplifying TIFIA loan criteria removed some of the subjectivity of the process, but it also broadened the criteria such that every large potential project could qualify. This dramatically limits the Administration's ability to use TIFIA to stimulate innovation.

In the Bush administration, we used the TIFIA Program to encourage governments to utilize pricing to finance their infrastructure and manage congestion. The Obama administration used TIFIA to encourage livability. Both Administrations provided TIFIA loans to high priority projects that did not directly advance policy goals.

But TIFIA was a very useful tool to encourage new thinking about transportation projects. It would be a loss to the transportation community if the Department was denied the ability to use TIFIA as an incentive to encourage new thinking.

My second point is to second Geoff Yarema's comments on the need to speed the process. In fact, the most serious challenge facing the TIFIA Program is the time it takes to process and approve a loan application. The changes incorporated in MAP–21 and improvements made by the TIFIA office since the passage of MAP–21 have helped alleviate some of the concerns about timing, but there is still much to be done.

Most of the improvements to the program can be made administratively and do not require a change in statute. I have listed seven changes in my written testimony, but let me just touch on two briefly here.

First of all, it would be very helpful if TIFIA was moved to the Office of the Secretary of Transportation. This would improve communications with and between OMB, Federal Highways, the Office of Innovative Program Delivery, the Credit Council and the Office of the Secretary, all of which have a role in approving TIFIA loans. Moving to the Office of the Secretary would expedite and improve that communication.

Second, the Department should establish a rule that no policy changes regarding TIFIA loans should be made affecting lending decisions on a particular loan after the application has been submitted. In other words, policy changes should be prospective, not retroactive.

The changes I listed in my written testimony can shave months off the loan approval process.

Finally, let me talk about risk. The TIFIA program has always carefully balanced at-risk projects in need of subsidized subordinate debt against the potential that a borrower may not be in a position to repay the loan. This tension was evidenced in the position taken by a staff member who worked early in the days of the program who refused loans for projects that were risky because a loan may not be repaid and refused loans for projects that were not risky because they were not in need of TIFIA assistance.

Fortunately, the TIFIA Program found its way out of this Catch-22 and developed into the very potent and successful program that exists today. But there will always be a tension between supporting needy projects and getting repaid.

As the TIFIA Program matures, it would helpful for this Committee to encourage TIFIA to take a portfolio approach. In any portfolio, some loans will under-perform and others will do quite well.

While the Credit Council should be very careful stewards of taxpayer funds used in these loans, they should not be encouraged to pursue a minimal risk, or worse a zero risk strategy. Such a strategy would work against the policy foundation of the TIFIA Program which was to provide credit for projects that would otherwise be difficult to finance. It is important to keep in mind that the worst performing TIFIA loan still provides infinitely more return than the best performing grant.

In conclusion, I would like to thank the Committee for its leadership in championing the TIFIA Program and welcome any questions you might have.

[The prepared statement of Mr. Gribbin follows:]

MACQUARIE

TESTIMONY OF

DJ GRIBBIN
MANAGING DIRECTOR
HEAD, GOVERNMENT ADVISORY AND AFFAIRS
MACQUARIE CAPITAL

BEFORE THE

UNITED STATES SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON

THE IMPLEMENTATION OF MAP-21'S TIFIA PROGRAM ENHANCEMENTS

WEDNESDAY JULY 24, 2013

Thank you for this opportunity to testify before the Committee on the impact MAP-21 has had on the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. By way of introduction, I am a Managing Director at Macquarie Capital and head of our government advisory and affairs practice here in the U.S. Macquarie is the world's largest private sector investor in infrastructure, and has been particularly successful in developing and bidding on public-private partnership (P3) projects in the U.S. Since 2008, Macquarie has been successfully involved in two-thirds of all large P3 transactions, which had a combined total asset value of $14.4 billion. Prior to joining Macquarie, I served as the Chief Counsel of the Federal Highway Administration (FHWA) and as the General Counsel to the United States Department of Transportation (USDOT). At FHWA, I worked on a number of TIFIA loans, and I served on the USDOT Credit Council when I was General Counsel for the Department. As a result, I have had the privilege of working with TIFIA from both public policy and private transactional perspectives.

Benefits of TIFIA

This Committee is very familiar with the beneficial impact TIFIA has had on infrastructure investment in the United States; so there is no need for me to go into detail on that front. Instead, let me focus on the benefits of the TIFIA program when it comes to innovation in transportation infrastructure finance and delivery.

TIFIA has done more than just provide additional capital for transportation infrastructure. TIFIA encourages prioritization of project selection, innovation in project finance, and considerable creativity in project delivery. In short, the TIFIA success story goes far beyond the $11 billion invested in $43 billion worth of projects. TIFIA creates a number of positive externalities that generate value for infrastructure investment beyond just the funds lent to projects.

At its most basic, just the fact that borrowers have to repay funds, as opposed to traditional grant programs, encourages sponsors to select projects that will produce a return on investment. As a result, governments are encouraged to advance projects that are of higher utility than a traditional transportation program. Federal financial support that has to be repaid, especially projects repaid with tolls, brings significant discipline to the project selection process, avoiding the challenge of "bridges to nowhere."

TIFIA lending also helps encourage private investment in infrastructure by offering the market a patient lender with discounted lending rates. TIFIA, when combined with private activity bonds (PABs), opens the door to private investment in infrastructure, which in turn brings private

sector discipline and innovation to project finance. With each passing year, competition among private investors is producing more efficient financial structures to the infrastructure market.

TIFIA also encourages the introduction of private capital into projects by helping level the playing field between taxable and tax-exempt debt. The U.S. is unique in our use of tax-exempt debt, essentially subsidizing state and local borrowing with federal taxpayer funds. This government-to-government subsidy can prevent private investment from being competitive absent significant savings found elsewhere in an infrastructure development. TIFIA helps level that playing field, which allows for increased private sector involvement, triggers more innovation, lowers project costs and stimulates more efficient procurement methods. TIFIA has stimulated increased use of a number of innovative project delivery methods including design-build-finance and design-build-finance-operate-maintain.

So allow me to take those three benefits of TIFIA – prioritization of project selection, innovation in project finance, and creativity in project delivery – and discuss how MAP-21 affected them.

TIFIA's Role in Transportation Finance

Let me start by noting how beneficial MAP-21 changes have been generally. Increased funds for loans and the process streamlining are both very helpful to a program that was increasingly constrained by limited resources. I would encourage the Committee, however, to preserve the unique role TIFIA plays in terms of incentivizing better project prioritization and innovation and not have it morph into a broad grant-like program that just subsidizes every project. As noted above, TIFIA's impact on transportation goes far beyond just additional funding.

Simplifying TIFIA loan criteria removed some of the subjectivity of the process, but it also broadened the criteria such that every large potential project could qualify. In the Bush Administration, we used the TIFIA program to encourage governments to use pricing to finance their infrastructure and manage congestion. The Obama Administration used TIFIA to encourage livability. Both Administrations provided loans to high-priority projects that did not directly advance their policy goals, but TIFIA was a very useful tool to encourage new thinking around transportation projects. It would be a loss to the transportation community if TIFIA could not be used as an incentive to encourage new thinking.

As a funding tool for infrastructure, TIFIA should be considered in context. Public developers of infrastructure have access to a broad range of tools to help finance traditional infrastructure, including federal and state grants, GARVEE bonds, revenue bonds, general obligation bonds, special tax districts, tax increment financing, and sales taxes. From a policy perspective, the

federal government has no involvement in project selection in the vast majority of projects. While states and localities should take the lead in establishing project priorities and determine what they want to advance, there should be a small role for the federal government to encourage innovation and new thinking, and TIFIA has historically filled part of that role.

Expanding TIFIA to cover all potential projects over $50 million ($15 million for Intelligent Transportation Systems (ITS) or $25 million for rural infrastructure) would just add it to the existing list of federal programs, including grants and GARVEES, under which there is no policy guidance or competition around the provision of federal project support.

Competition incentivizes innovation. Whether it is competition for State Infrastructure Bank funding, Urban Partnership Agreements, TIFIA or Transportation Investment Generating Economic Recovery (TIGER) grants, federal competitions have been very successful in generating new, innovative approaches to project delivery. And TIFIA is the only competitive program that requires the winner to pay back the federal government. Converting TIFIA into a first-come, first-serve program with minimal policy considerations would remove the only federal transportation program that encourages innovation and requires repayment.

Continuing Improvements to the TIFIA Application Process

Now that Congress has increased funding for the TIFIA program, the most serious challenge facing the program is the time it takes to process and approve a loan application. The inability of TIFIA to make a lending decision in a reasonable period of time prevented Indiana's East End Crossing project from seriously considering TIFIA involvement. TIFIA's project approval timelines are far outside the market norm and make it difficult to develop and close projects in a timely manner. That said, the program has improved considerably since my time at FHWA, when the Florida Department of Transportation declared that they would never seek a TIFIA loan again since the timing delay outweighed the benefits of the lower interest rates.

The changes incorporated in MAP-21 and improvements made by the TIFIA office since the passage of MAP-21 have helped alleviate some of the concerns about timing, but there's much to be done. Most of the improvements to the program can be made administratively and do not require a change in statute. Administrative improvements I have recommended to USDOT include the following:

- Re-organize TIFIA so that it is part of the Office of the Secretary of Transportation (OST). Having loan decisions spread across the Office of Management and Budget (OMB), OST,

the USDOT Credit Council, the Office of Innovative Program Delivery (OIPD), and FHWA is unwieldy and creates a series of execution challenges.

- Cleary identify which lending decisions need to be made at the Letter of Interest (LOI) stage, which at the first Credit Council meeting, and which at the second Credit Council meeting. This would allow borrowers and TIFIA staff to know what level of detail needs to be provided to decision makers at each stage of the process.
- Provide borrowers with a tentative schedule of events at the start of the process identifying key milestones.
- Provide borrowers with a loan amount, not a credit subsidy amount. USDOT should consider reserving some of the TIFIA budgetary authority to help set the quantum of the loan at a fixed dollar amount during the duration of the loan negotiations. Not setting the loan at a defined dollar amount creates considerable, unnecessary complexity as the final loan amount cannot be set until financial close.
- Offer a loan template that can receive expedited consideration. Borrowers should not be forced into a one-size-fits-all loan agreement, but if a borrower is willing to accept the terms offered a project of similar credit risk with similar issues that have been resolved, then that borrower should be afforded an expedited review.
- Establish any policy changes that will apply to a given project when the LOI is accepted and make no subsequent changes in policy for that project. Invariably policies will evolve with time, and the government should alter loan policies with changing circumstances and greater experience. OMB may change the calculation of credit subsidies, the Credit Council may adopt different credit standards for back-loading debt, or policies could be set regarding the lending of more than 33% of project costs. It would be helpful if policies for a certain loan are all established at the beginning as opposed to evolving as the loan is being negotiated. Moving policy targets create considerable delay in the loan process.
- Establish a deadline weeks prior to financial close by which a determination is made that all federal procurement requirements have been met. The mode responsible for the TIFIA loan should be asked to pass final judgment that all federal procurement regulations and guidelines have been met well in advance of financial close.

These changes could shave months off the loan approval process and provide an increased level of timing certainty to project developers and lenders.

TIFIA Lender Risk

The TIFIA program has always had to carefully balance encouraging at-risk projects in need of subsidized, subordinate debt against the potential that a borrower may not be in a position to

repay the loan. This tension was evidenced in the positions taken by a staff person who worked in the early days of the program who refused loans for projects that were risky because the loan may not be repaid and refused loans for projects that were not risky because they were not truly in need of TIFIA credit support. It was a classic Catch-22. Fortunately, the TIFIA program found its way out of this Catch-22 and developed into the very potent and successful program that exists today.

As the TIFIA program matures, it would be helpful for this Committee to encourage the TIFIA program to take a portfolio approach. In any portfolio, some loans will underperform and others will do quite well. While the Credit Council should be very careful stewards of the taxpayer funds used in these loans, they should not be encouraged to pursue a minimal risk, or worse a zero-risk, strategy. Such a strategy would work against the policy foundation of the TIFIA program, which was to provide credit for projects that would otherwise be difficult to construct. There are indications that the TIFIA program is becoming increasingly risk adverse, adverse to the point that lending practices could become increasingly difficult to align with market requirements.

In sum, TIFIA fills a critical market gap by providing debt in circumstances that other lenders find difficult and with terms that cannot be found elsewhere. Focusing its lending on this gap will result in loans that may carry more risk; but at the end of the day, it is important to recognize that even the worst performing TIFIA loan is better than the best grant in terms of the return it provides taxpayers.

Conclusion

In conclusion, I would like to thank this Committee for its leadership in championing the TIFIA program by providing additional funding and working to streamline the loan negotiation and approval process. I would encourage the Committee to continue its support of TIFIA and (1) leverage the unique benefits of TIFIA and not allow it devolve into just another form of infrastructure funding; (2) continue to partner with the Department to improve the TIFIA loan approval process and make the process one that is more practical in terms of project timing; and (3) encourage the Department to continue to take a portfolio approach to the program and expect that while some loans may underperform, the program as a whole will continue to be a significant driver of improved infrastructure, resulting in economic growth and job creation.

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August 30, 2013

Senator Barber Boxer
Chairman
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Senator David Vitter
Ranking Member
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

MACQUARIE

Dear Senators Boxer and Vitter:

In response to your letter of August 13, 2013, please find below answers to the questions you had following the Committee's July 24, 2013 hearing entitled, "Oversight Hearing on the Implementation of MAP-21's TIFIA Program Enhancements." Per your instructions, please find below a restatement of the questions and my answers. Thank you for this opportunity to provide additional comments.

Senator Boxer Question 1 – Mr. Gribbin, your testimony mentions things DOT could do to make the application process work more efficiently, one being the creation of a uniform loan template. Could you explain how such a one size fits all approach could work and how that would help simplify the process for applicants?

Answer - The TIFIA program receives a wide variety of loan applications. Some potential borrowers need innovative or relatively aggressive terms; others value speed. The market would be well served if the TIFIA office could develop a standard set of terms that would offer credit-worthy borrowers the opportunity to use an expedited loan approval process.

To be clear, the terms should not be one-size fits all. TIFIA should not dictate terms to the market because that would inevitably discourage innovation and prevent important transportation projects from receiving the credit assistance they deserve. Instead, this standard set of terms would be optional and would be utilized by borrowers valuing speed of process. For example, TIFIA could have a pre-approved standard set of terms for revenue risk projects and non-revenue risk projects setting appropriate terms for security and priority, events of default, permitted investments, change in control, restricted payments, operational oversight, and a variety of other terms. While as a practical matter many of these terms are consistent between agreements, having a formal template would allow both borrowers and the TIFIA staff to work from a common point at the very beginning of the process. TIFIA has already developed a loan template to provide informal guidance to the market. Formalizing something along the lines of the existing template would be very helpful. Of course, TIFIA staff should be allowed to determine whether or not a project qualifies for the formal loan template, but that determination should be made at the very beginning of the process.

Senator Boxer Question 2 – Mr. Gribbin, in your testimony you advocate for repositioning the TIFIA Office inside the Office of the Secretary at DOT, which is something Secretary Foxx stated that he is pursuing. Can you elaborate on why you think this will be beneficial and how it might improve the TIFIA decision-making process within DOT?

Answer - The TIFIA Office should be re-located within the Office of the Secretary (OST) because the current program oversight is highly fragmented, greatly complicating clear communications between the program's staff and its management. As this Committee is aware, the TIFIA staff is located in the Federal Highway Administration (FHWA) but reports to the Credit Council, an artificial construct designed to harmonize all lending programs within the United States Department of Transportation (USDOT). In addition, TIFIA has to comply with lending policy established by the Office of Management and Budget (OMB) and every TIFIA loan has to be scored and effectively approved by OMB. As a result, the logistical challenges of approving a loan, which are considerable, are complicated by the policy challenges of making a loan because policy decisions are spread between FHWA, Credit Council, and OMB. Some of these policies are as simple as whether or not to hire attorneys before the second Credit Council meeting or whether to change Credit Council meetings to accommodate data preparation by borrowers. Other policies have larger implications such as whether to provide loan applicants with a subsidy amount or a loan amount early in the negotiations (providing a loan amount may require the program to pay a larger subsidy depending on the terms of the loan and market conditions at financial close). Under its current management structure, resolving these operational policy issues is unnecessarily cumbersome. Allowing the TIFIA staff more direct access to those managing them, i.e. key members of the Credit Council, would almost certainly improve the performance of the program.

Some have expressed concern that OST is more of a policy organization and not well equipped to administer a program. I think that is a fair assessment. However, it is important to note that once the Credit Council was created, effective administration of the TIFIA program moved from FHWA to OST, it just did so in an organizationally awkward manner. OST staff make up 6 of the 13 members of the Credit Council, and the TIFIA website states, "Implementation of the TIFIA Program within the U.S. Department of Transportation (USDOT) is the responsibility of the Secretary of Transportation (Secretary)." Creating the Credit Council effectively moved the policy making and governance of TIFIA from FHWA to OST. Moving the TIFIA office to OST will only formalize and simplify a governance structure that is effectively already in place.

Senator Boxer Question 3 – Mr. Gribbin, your testimony states that TIFIA should not be allowed to devolve into just another form of infrastructure funding and should maintain some form of selection criteria. Can you expound on the idea of why selection criteria should be maintained, while at the same time meeting the need to expedite project selection in the TIFIA program?

Answer - TIFIA fills a special and unique role in infrastructure finance. It provides financing for projects that otherwise would not be built. In fact one of the initial criteria for TIFIA loans was that the project needed additional financing, i.e. the project was not viable with just traditional sources of funding. Allow me to quote again from the TIFIA website:

> "TIFIA was created because state and local governments that sought to finance large-scale transportation projects with tolls and other forms of user-backed revenue often had difficulty obtaining financing at reasonable rates due to the uncertainties associated with these revenue streams. Tolls and other project-based revenues are difficult to predict, particularly for new facilities. Although tolls can become a predictable revenue source over the long-term, it is difficult to estimate how many road users will pay tolls, particularly during the initial "ramp-up" years after construction of a new facility. Similarly, innovative revenue sources, such as proceeds from tax increment financing, are difficult to predict. TIFIA credit assistance is often available on more advantageous terms than in the financial market, making it possible to obtain financing for needed projects when it might not otherwise be possible."

Eliminating TIFIA policy criteria would undermine the purpose for having TIFIA, i.e. to create an incentive for states and local governments to develop additional transportation revenue streams. Without policy criteria, TIFIA will likely just morph into a complicated GARVEE-like program allowing states to borrow against their current transportation funding to finance a wide variety of projects that contain little new funding and little risk. In other words, TIFIA would be used to finance projects that do not really need TIFIA.

Senator Vitter Question 1 – In your testimony you mentioned some states in the past were reluctant to seek TIFIA assistance because the delays were not worth the benefits. At what point do states become discouraged from participating in the program? Do you think current delays are detracting some from participating?

Answer - Fortunately, I think the TIFIA program has matured to the point at which States will no longer throw up their hands and give up on the TIFIA process. That said, there has been considerable frustration, as evidenced in the hearing, that TIFIA's ability of function and an efficacious infrastructure financing tool has been impaired by slow decision making and poor processes. And there has been at least one project unable to use TIFIA because the TIFIA timetable exceeded the project procurement timetable. States, localities and project developers will certainly make greater and better use of the TIFIA program if the loan approval process was faster and more predictable.

Senator Vitter Question 2 – Since the majority of projects submitted their LOI (letter of intent) a year ago, what has been the overall effect of the increase in interest rates for pending and future applications?

Answer - Interest rates are obviously a very important component to infrastructure finance given the high dollar value of the loans and their long tenure. The recent increase in interest rates has put considerable pressure on infrastructure financing, and projects that were affordable earlier this year, may no longer be so. This impact of interest rates on infrastructure is foundational to the value the TIFIA program offers those who want to improve our nation's infrastructure. TIFIA's low and subordinated rates have proved invaluable to a wide variety of infrastructure projects.

Senator Vitter Question 3 – Do you have concerns that management of the program will prevent the obligation of all of TIFIA funds before the 2014 apportionment deadline? Are you concerned with the ramifications on the program if that occurs?

Answer - The significant increase in funding for TIFIA presented both an opportunity and a challenge. As you note, the challenge is to commit or obligate funds before April 1, 2015 such that the 75% trigger is avoided and funds do not have to be redistributed out of the TIFIA program. Given the increased interest in TIFIA and the number of LOIs they have received this month, I think it likely that the 2014 apportionment deadline will not be a problem. That said, the hearing held by the Committee clearly indicates that the TIFIA process needs to be accelerated and that there are a number of improvements that could be made to the program to help this acceleration.

If there is an unfortunate redistribution of funds away from TIFIA, it will not have serious ramifications on the program from a borrower's standpoint. Such redistribution would be wasteful, unfortunate, and highlight again the need to streamline the TIFIA process, but TIFIA will still remain one of the best infrastructure finance programs in the nation.

Yours faithfully
Macquarie Capital (USA) Inc.

D.J. Gribbin
Managing Director
Head, Government Advisory and Affairs
Macquarie Capital Advisors

Senator BOXER. I want to thank the panel. You did exactly what we asked you to do, Senator Vitter and I, we want to know how this program that we agreed to expand is working and I think what we are hearing from you is some concerns about the pace, but, on other hand, I do not hear complete criticism.

So, I am going to go to Mr. Leahy to talk to him. I know Los Angeles is doing extraordinary work in delivering so many transit and highway projects in a short period of time. And you explained why. People voted to tax themselves which is always the best mandate you can have, especially a super majority.

So, when Mayor Villaraigosa came here with his team of people and you were among them, and we decided to take this to our colleagues, we have seen tremendous movement and progress in Los Angeles.

I just wonder if you could elaborate on the economic benefits of accelerating these types of projects, both in terms of jobs created and costs saved by building these projects faster, particularly at a time of lower construction costs. So, if you could expand on that.

Mr. LEAHY. Sure. Well, we have three major projects I mentioned, all of which are being accelerated in part because of the potential for TIFIA, a North-South Crenshaw Light Rail line, a regional downtown connector that will hook up major regions of LA County, which is a very large county, as you know, and the subway out to the west side of Los Angeles.

In the case of the TIFIA loans, we save money, several hundred million dollars on the TIFIA financing for these three projects, we get the benefits of the projects quicker and, altogether, the projects will create more than 40,000 jobs in a struggling Los Angeles economy.

And this all, I would say to that, the subjective benefit of proving to the voters that we can deliver the goods. We made promises, we are going to deliver on those promises. So, they know they can count on us.

To get a two-thirds vote in favor of a sales tax in the middle of a recession is quite an achievement. What it reflects is voter support for these projects and voter confidence that we are going to deliver the project.

Senator BOXER. And of course what it does for us is it gives us a steady stream of payback for the TIFIA loan.

Mr. LEAHY. Exactly.

Senator BOXER. Mr. Bass, out of all of the folks here, I think you were a bit negative about the way the DOT is handling things now and it is important that we expand on that because the purpose of this hearing is, I mean, we have just as much at stake in the TIFIA Program as all of you do because we put our confidence in it and we want to make sure it is working right.

So, I want to press you on some of the things you said. Are you having personal experience that shows you that they are not moving quickly, that they are not moving to a larger share of the projects from 33 percent to 49 percent? So, are you concerned about, because you have been very successful, Texas has been a leader in taking advantage and successfully delivering large-scale projects.

So, are you sensing a change for the worse since we have expanded it? I am trying to grab, because we are going to communicate, I hope that Senator Vitter and I can write a joint letter to Secretary Foxx, laying out some of the problems. So, expand on that a little bit.

Mr. BASS. Thank you for the question. Let me first state that the TIFIA Program had a very positive effect and impact within the State of Texas and continues to do so. With any program, we do see that there are areas for potential improvement.

Senator BOXER. Right.

Mr. BASS. So under the four letters of interest that the State of Texas, TxDOT, submitted under MAP–21, we initially asked for up to the 49 percent participation of eligible project costs. We received a response back from the TIFIA Program office that, in order to go above and beyond the historic cap of 33 percent, we would need to have a compelling argument in order to go above 33 percent.

Senator BOXER. I think a good, compelling argument is that we said that they should.

[Laughter.]

Mr. BASS. We attempted that.

[Laughter.]

Mr. BASS. However, we apparently were not very persuasive as we are at 33 percent.

Another project, and I think you heard from some of the other witnesses today, the challenge, and I can only imagine the TIFIA office and program at a time when it is expanded eight- to tenfold and trying to bring on additional staff with the experience and expertise to be able to hit the ground running on Day 1. So, I certainly understand the challenges they face.

But as an example on the timing, I would use the Grand Parkway Project in the Houston area of Texas. We submitted our LOI, Letter of Interest, last August.

Last week, we priced, in the capital markets, $2.9 billion in bonds. We will close on those next week. We are currently at the Credit Council stage with TIFIA, so we have not yet been invited to formally submit an application, yet we have already gone through with the rating agencies and investors and priced that into the market.

So, what we did in our financing structure last week is we included some temporary financing mechanisms in the hope and anticipation of closing with TIFIA later this year, that we will then be able to use TIFIA to take it out. But we have been running about 11 months and we have been able to take it to capital markets but we have not been able to close with TIFIA.

Senator BOXER. Well, I think this is very important information for us. Let me make a commitment here. Secretary Foxx said he is adding 16 people. So, clearly he gets the fact that they are not staffed up enough. And this is very critical.

Looking at it from their side, they do not want to make a mistake because the first mistake, politics will implode on whoever makes a mistake, whether it is a Republican Administration or a Democratic one. It becomes political if there is a mistake. And so, we have to understand that.

At the same time, when you say you have closed on your bonds and so on and so forth. So, here is what I am going to propose. This is my last comment of this hearing. All of you have been very constructive. And I do appreciate the specificity that you brought to this because we cannot really help if we do not know what is going on.

Obviously, Secretary Foxx is a great believer in this program and wants to make it work. I am going to ask staffs on both sides to work with Senator Vitter and I to draft a letter that is very specific and laying out, we will send him all of your testimony, but we will also lay out in a format that is very simple, because you have been very straightforward, what the problems are. You have my word that we will do that.

Is anyone here from DOT? Did anyone stay from DOT? Good. Well, that is wonderful.

[Laughter.]

Senator BOXER. You can kind of a give a heads up. Why don't you introduce yourself to us?

Mr. ANDERSON. I am Blair Anderson. I am in the DOT Budget Office. I have a nice little note pad here with me.

[Laughter.]

Senator BOXER. That is good. And I am very glad you stayed. I seriously mean that. Because a lot of times we do not have that happen and then we have to recreate the entire thing. So, you are taking notes.

We are going to write a letter. And it is my hope that we can break through some of the, perhaps, institutional resistance because this is a greatly increased program and I am sure that means greatly increased applications and a lot of pressure.

So, thank you all. And I will turn it over to David to finish this.

Senator VITTER. I am glad one person from DOT hung around. When you shyly raised your hand at first, I was tempted to ask and how was your summer internship going.

[Laughter.]

Senator VITTER. But I am just kidding.

[Laughter.]

Senator VITTER. I am glad one significant person is here from DOT to listen to this because that is the point. We wanted to hear it and I think it is important for the Department to hear it. And thank you all for your testimony and for being specific and precise.

Let me ask all of you, when we dramatically expanded this program, the intent was for this to be a rolling, more or less first come first served if you met the eligibility process. What has happened is you have a lot of applications built up.

Now, maybe that is because they are getting their sea legs under them, hiring new people, it is a big expansion. The alternative is a fear some of us have that they still want to sort of pick winners and losers and use a lot more discretion than we intended.

Which is the case in each of your opinions?

Mr. BASS. I guess I will start. In my opinion, I think it is the first that you mentioned, staffing up for a greatly enhanced program. And I do not know the details of the salary ranges that they are authorized to offer, but I can certainly imagine that it may be challenging to attract the talent with the experience.

Some of these, as you well know many of these projects are very complicated financial transactions and in order to attract staff with that experience, I can certainly understand that it might be challenging given civil service salary levels.

Senator VITTER. Anybody else want to chime in? You do not all have to answer.

Mr. ROBERTS. Just real quickly, from AGC's perspective, I think the key ingredient is to keep the political environment away from it and focus on streamlining and expediting the timeliness of it and that, whatever it takes, whether it is 16 or 26 or whatever. The opportunity is there and we just need to make sure it is expedited and actually shown physically with the jobs out in the construction market itself.

Mr. LEAHY. Senator, I would just note that, you know, there are some TIFIA loans that may have more risk. There are others that have little risk. In Los Angeles, we have a large voter-supported revenue stream so the loans that we get are basically risk free. We think that when that is the case, that should allow for expedited processing of that loan application. Other loans may have more risk and that might not be the case.

Senator VITTER. OK.

Mr. GRIBBIN. I am sorry. I would just chime in on that. When I was at DOT, I actually was on the Credit Council so I have seen this both from inside the Government and outside. TIFIA being slow in processing applications is not new. TIFIA has struggled with timeliness since its creation.

I think part of the challenge now that it is so popular and fully funded is the way that DOT is structured to administer those loans is not particularly as effective as it could be. And there are a number of structural changes and process decisions that need to be made to help move those quicker.

Senator VITTER. Mr. Gribbin, let me follow up with you. In your testimony, you suggested that there should be more subjective policy-oriented factors. And as you can tell from my comments, I think I disagree with that. Would that not, in fact, increase the uncertainty and probably increase the bureaucratic time requirement in such a way that is would be less effective and more costly in the marketplace?

Mr. GRIBBIN. Intuitively the answer to that would be yes. In practice, we have not seen the program move faster with limited policy criteria.

Part of my comments were driven by the fact that TIFIA is very successful because it is a niche player in infrastructure finance. It is used in specific situations where governments can repay over time loans for projects. And it has done a fantastic job in that.

I think part of the challenge is to resist the temptation to take what has been really effective in a niche and try to apply it across a number of areas where TIFIA really would not be all that helpful.

And then second, the program itself can be a really useful tool to encourage borrowers to think outside of the box and to approach transportation finance in a different manner. And as I noted in my testimony, you have seen both the Bush administration and the Obama administration use it successfully to that extent, and I

think there have been significant policy and transportation improvements as a result. And incorporating policy decisions into the loan process has not significantly slowed down the process.

Senator VITTER. Right. Well, I am hoping that we are going to change that record over time and that once this office is ramped up in terms of staffing, we will streamline the process. I do not think we have adequately tested that yet or have given it enough time. But, certainly, we are all going to be pushing to streamline that and to decrease that timeline.

My only final comment would be maybe we should pare down the universe where we use TIFIA if it is more effective and makes more of an impact in that universe. I would hate to increase and get back to very subjective factors because I think that level of loosey-goosey discretion really increases uncertainty and therefore lack of efficiency and lack of time limits in the market.

Senator BOXER. Senator Carper, we are just finishing up. So, welcome.

Senator CARPER. Thank you, Madam Chair.

Senator BOXER. So, you can use your 5 minutes any way you want.

Senator CARPER. I just came to hear Senator Vitter say loosey-goosey.

[Laughter.]

Senator CARPER. I do not think I ever heard that term, we use that term in Delaware but I did not know it was a Louisiana thing as well.

Senator VITTER. I am not sure it means the same thing.

[Laughter.]

Senator CARPER. You never know.

Sometimes when I pop in at the end like this, I apologize, we had a couple of bills come up on different committees and I just, we just have a lot going on. So, I apologize for missing your statements.

And coming in at the end of like this, sometimes when I chair, I chair the Senate Committee on Homeland Security and Government Affairs, but sometimes when I get to the end of a hearing I will ask, you know, you had a chance to give an opening statement and answer the questions and so forth, let me just ask you to each take a minute to give a closing statement.

And what I am looking for is concurrence, where there seems to be consensus, and in terms of your advice to us going forward.

So we will start, how do you pronounce your last name? Is it Gribbin?

Mr. GRIBBIN. Gribbin, yes.

Senator CARPER. Mr. Gribbin. Just a quick closing statement, some good advice that you think represents a consensus view.

Mr. GRIBBIN. Yes, we can divide the issues on TIFIA into two buckets, one is policy and one is administration. And I think that while there might be some difference on how, from a policy standpoint, do you best use TIFIA, I think there is a fair amount of consensus on the administration side that there are a number of changes the Department can make that would greatly streamline the process, whether that be centralizing TIFIA decisionmaking inside the Department, providing expedited processing for what are

commonplace loans, I think there are a whole series of things that the Administration can do speed along.

And I am thankful for this committee to have a hearing and especially that there is going to be a letter afterwards which maybe could include some of these ideas which will be sent back to the Department.

Senator CARPER. Good. Thanks. Mr. Roberts.

Mr. ROBERTS. Yes, sir. I think it is very consistent across the panel that TIFIA is an excellent program for financing. It should not be utilized as a funding mechanism which it is not. It is a financing mechanism. We have given many, or several, individual recommendations. I will review, real quickly, some of them. Direct more personnel to the TIFIA review team.

Senator CARPER. OK.

Mr. ROBERTS. This is very important to expedite the process. Not hold the decisions on TIFIA awards until a record of decision has been issued but have it a process where you would have the creditworthiness going along simultaneously so that we can expedite the end result of the approvals.

Develop more educational tools to those entities that are not capable today of understanding the process. It is a very long process, a very detailed process. Also, more transparency in the project selection process. We talked about that a little bit today. Very transparent, open, so that people have a strong level of trustworthiness of the program.

And also, one thing I did mention earlier is that TIFIA should be available to help establish investment grade rating for projects that are close but ultimately unable to do so on their own so that it actually is helping at the same time.

Senator CARPER. OK. Good.

Mr. ROBERTS. Key ingredient—great program. Let's expedite it and get it out in the field.

Senator CARPER. All right. Thanks.

Is it Mr. Leahy?

Mr. LEAHY. Yes.

Senator CARPER. As in Pat Leahy, our colleague? Is he your father?

Mr. LEAHY. No, sir.

[Laughter.]

Senator CARPER. There is a resemblance. Do you see it, Barbara?

[Laughter.]

Senator BOXER. I am not getting into it.

Senator CARPER. All right. Please.

Mr. LEAHY. Senator Carper, thank you for asking.

Senator CARPER. About Senator Leahy?

[Laughter.]

Senator CARPER. Actually, I did meet him on a train one time. All right. That is good.

Mr. LEAHY. I have lamented that I cannot call him dad for a long time.

[Laughter.]

Mr. LEAHY. Anyway, we think the TIFIA Program has been very useful in Los Angeles for a number of projects. We appreciate it. We believe that we have a very strong non-Federal revenue stream

in Los Angeles from voter-approved sales tax measures. The TIFIA Program helps encourage, incentivize the development of non-Federal revenue streams because it allows us to get the benefit quicker, to show the taxpayers and the voters that they can trust us.

We have discussed this before, but we think the notion of a Master Credit Agreement is commendable and that the loan should be fully subordinated just to facilitate it to get that work done. And with that, I will close. I appreciate being here with you.

Senator CARPER. Thanks. Thanks so much for coming. Mr. Yarema, please.

Mr. YAREMA. Senator, I appreciate the opportunity. We have reviewed a number of things here today where we think the U.S. Department of Transportation can improve, some mechanical, technical things that, I am not sure are entirely a lack of staff. And so, I hope that there will be some care given to some of the suggestions that we have put forward.

I appreciate the focus of this hearing is on implementation of MAP–21 but we are only a short time away from reauthorization of MAP–21 and I think it is worth pointing out that, you know, this Committee really pioneered the policy that TIFIA should be sized to meet the demand, anticipate demand, at the time of reauthorization. That has turned out to be a really good policy. Every dollar that you put forward for TIFIA, I think, has a 30 or 40 to 1 leverage.

So, as you look forward to reauthorization, I think what you are looking forward to is another increase in the program's loan capacity. And that, I think, will be something that discussion should be started on now.

Senator CARPER. OK. Thanks.

And last, for Mr. Bass. Sometimes people call me Carp. So, Carp recognizes Bass for a response, if you will. Just a quick close.

Mr. BASS. Thank you. No. 1, the TIFIA Program is a tremendous program in assistance to States in delivering projects. No. 2, the existing staff has done a wonderful job in a very challenging environment of a greatly expanding program. Having said that, I do think there are some opportunities to improve the timeliness of the overall process.

One of the things we talked about as well is that historically the cap on participation from TIFIA had been 33 percent. Under MAP–21, that was increased to 49 percent. There appears to be possibly a reluctance to go above the 33 percent and, if that is true, I think a clear set of criteria as when the Administration would consider more than 33 percent would be helpful.

Last, for rural projects with a set aside, I think if there is an opportunity to perhaps streamline that process for projects in rural areas of the Nation, that would be beneficial as well.

Senator CARPER. Good.

Madam Chair, I would just say thanks for recognizing me. I just want to say, in conclusion, it's one of the recurring themes, and Chairman Boxer and I have been partners for a long time in governance of our Country, but one of the things we focus on is how do we get better results for less money, how we leverage a little bit of Federal money to be able to stream a whole lot of money into,

particularly, the infrastructure which we know is one of the ways to grow our economy.

And the last thing is to say, find out what works and do more of that. This is something that works. We know it is not perfect. We know we can make it better. So, thanks very much for coming by and sharing with us some of the ideas to make a good thing even better.

Thanks, Madam Chair.

Senator BOXER. Well, Senator Carper, I know your incredible chairmanship that leads you in other directions, but you always manage to show us that you care about these issues deeply, and it is a pleasure to have you on this Committee.

And Secretary Foxx was very good and I think what has happened here with these really good people who want this program to work, who love what we did, is that you are exactly right. We are going to use their comments, send them over to the Secretary, we have a representative of DOT still here with us taking copious notes.

Senator CARPER. Who is that?

Senator BOXER. If the gentleman will raise his hand and introduce yourself to Tom Carper.

[Laughter.]

Senator BOXER. He has become a star of our show and, because we are so happy that he stayed here to transmit this because, hearing it from you, sir, and then hearing it from us, and I know that Secretary Foxx is very interested in making this work better.

So, I want to thank everyone for your presence here. We are committed to this program and we are committed to making sure it is the most effective program that it can be.

Thank you very much for your help.

We stand adjourned.

[Whereupon, at 11:45 a.m., the Committee was adjourned.]

[An additional statement submitted for the record follows:]

STATEMENT OF HON. JEFF SESSIONS,
U.S. SENATOR FROM THE STATE OF ALABAMA

Good morning, thank you Chairman Boxer and Ranking Member Vitter for holding today's hearing about innovative financing for transportation infrastructure under MAP–21.

Congress passed MAP–21 just 13 months ago. This was an important, although short-term, bill that we all hoped would streamline the road construction process, reduce regulatory burdens, and give greater control over road projects to the States. MAP–21 also maintained near-current levels of Federal highway spending in a manner that was deficit neutral. I was pleased to vote for the bill out of committee in 2011 and to support it on the floor last year.

However, just 14 months from now—at the end of September 2014, the Federal highway program will, yet again, face expiration. And CBO reports that the highway trust fund will be insolvent by 2015, when highway trust fund revenue is expected to be $38 billion—almost $14 billion less than would be needed to meet the expected $52 billion in obligations. According to a recent CRS report, a new 6-year highway bill at current funding levels would require Congress to fill an "$85 billion gap between planned spending and projected [] revenues . . . " Solving this funding shortfall will not be easy.

With a national debt of $16.8 trillion and growing every day, adding even more debt to fund infrastructure is not a viable option. The latest CBO figures show that, by the time we complete the current fiscal year (FY2013), the Federal Government will have spent $3.5 trillion in just 1 year, with a deficit of $642 billion. [1]

[1] http://www.cbo.gov/sites/default/files/cbofiles/attachments/44172-Baseline2.pdf.

We need to be smart about funding infrastructure. The "TIFIA" program, which is the focus of today's hearing, does help leverage Federal funds to accomplish more infrastructure projects. I look forward to hearing an update on the TIFIA program today.

But not all "infrastructure spending" is meritorious. If we are going to try to fully fund our highway program and other essential programs, this Government cannot afford to waste a dime of taxpayer money on wasteful or risky projects. Just a few months ago, the Las Vegas Review-Journal reported that: "[Senator] Reid, the Senate majority leader ... said the Federal Railroad Administration has agreed to a loan of almost $5 billion [for XpressWest]." The details of the XpressWest project were deeply troubling:

- Estimated cost for this 185-mile rail line from Victorville, CA to Las Vegas, NV was $6.9 billion—probably a very rosy estimate that understated the likely actual costs.
- Just $1.4 billion of the $6.9 billion cost was proposed to come from private sources.
- The remaining $5.5 billion—or at least 80 percent of the total project cost—would be fronted by the American taxpayer in the form of a loan by the U.S. Department of Transportation (through the Railroad Rehabilitation and Improvement Financing, or "RRIF," program).
- Imagine the audacity of someone to ask the American taxpayer—at a time of record debts and deficits—to finance 80 percent of a project like this. Yet, the Las Vegas Review-Journal characterized Senator Reid as "the project's most powerful booster."
- The Reason Foundation issued a Taxpayer Risk Analysis of the XpressWest project that identified a laundry list of significant concerns with the project.
- We know a primary purpose of the XpressWest train was to transport tourists—many of them, gamblers—from California to Las Vegas resorts and casinos. Why should American taxpayers pay for that kind of "infrastructure"?

House Budget Chairman Paul Ryan and I were deeply concerned about this dubious project and the possibility that this Administration, working in tandem with Senator Reid, would agree to devote billions of dollars in taxpayer funds for this proposal. Several months ago, when a decision approving the loan seemed imminent, we wrote Secretary LaHood and strongly urged him to "reject the XpressWest loan application and to direct its available RRIF funds to more worthy transportation infrastructure projects that could truly provide a reasonable rate of return to the taxpayers of this Nation." The Las Vegas Review-Journal reported that Senator Reid responded to our letter by stating: "We shouldn't allow Tea Party-driven ideology to limit much-needed investments in our infrastructure that create thousands of direct and indirect jobs."

Fortunately, in one of Secretary LaHood's final actions in the Administration, he signed a letter dated June 28, 2013, indefinitely suspending review of the XpressWest loan application explaining that "serious issues persist" with the XpressWest loan application; that there are "significant uncertainties still surrounding the project"; and that, as a result, USDOT has "decided to suspend further consideration" of the XpressWest loan request.

So, I applaud Secretary LaHood for his prudent decision to kill the XpressWest project. Today is this committee's first opportunity to hear from his replacement—Secretary Foxx. I look forward to asking Mr. Foxx about his views on prudent infrastructure investments and the importance of guarding taxpayer dollars against proposals like the XpressWest loan request.

In particular, as we try to find ways to fully fund the Federal highway program and to meet our growing infrastructure needs through programs like TIFIA, I believe this Government needs to take a close look at all of its programs to make sure we're as lean and fiscally prudent as possible. At a time of record Federal debt, we simply cannot afford to waste a dime of taxpayer money on risky, wasteful projects like XpressWest—even if some call them "infrastructure projects."

Last week, an editorial by the Las Vegas Review-Journal had some advice for Secretary Foxx in the wake of the XpressWest decision. The paper wrote: "Here's a better idea for new Transportation Secretary Anthony Foxx: Dump the idea of pouring huge sums of money into a utopian high-speed rail project that can't possibly cover debt payments. If the Department is serious about 'investing' those billions, spend them on improvements to the nation's interstate system ... "[2]

I think that is sound advice. Thank you.

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[2] Editorial dated July 18, 2013, http://www.reviewjournal.com/opinion/editorials/rail-no-return-investment-look-interstates.